DOCUMENT RESUME

ED 334 622 CS 507 525

AUTHOR	Gottlieb, Stephen S.
TITLE	A High School Student's Bill of Rights. Teaching Resources in the ERIC Database (TRIED) Series.
INSTITUTION	ERIC Clearinghouse for Social Studies/Social Science Education, Bloomington, IN.; ERIC Clearinghouse on Reading and Communication Skills, Bloomington, IN.
SPONS AGENCY	Office of Educational Research and Improvement (ED), Washington, DC.
REPORT NO	ISBN-0-927516-22-5
PUB DATE	91
CONTRACT	RI88062001; RI88062009
NOTE	132p.; Published by EDINFO Press.
AVAILABLE FROM	ERIC Clearinghouse on Reading and Communication Skills, Indiana University, 2805 E. 10th St., Suite 150, Bloomington, IN 47408-2698 ($9.95); ERIC Clearinghouse for Social Studies/Social Science Education, 2805 E. 10th St., Suite 120, Bloomington, IN 47408-2698 ($9.95).
PUB TYPE	Guides - Classroom Use - Teaching Guides (For Teacher) (052)
EDRS PRICE	MF01/PC06 Plus Postage.
DESCRIPTORS	*Civil Rights; Class Activities; Constitutional Law; *Freedom of Speech; Government School Relationship; High Schools; *High School Students; Lesson Plans; Public Schools; Search and Seizure; Student Responsibility; *Student Rights; Student School Relationship
IDENTIFIERS	*Bill of Rights; *United States Constitution

ABSTRACT

Designed to tap the rich collection of instructional techniques in the ERIC database, this compilation of lesson plans focuses on teaching high school students their Constitutional rights and responsibilities. The 40 lesson plans in the book cover the courts and basic rights, the rights of criminal suspects, the rights of minors and education law, and individual freedom at school and in the working world. The book includes an activities chart which indicates the focus and types of activities (such as class discussion, creative writing, critical reading, role playing, group activities, etc.) found in the various lessons. The United States Bill of Rights, The Northwest Ordinance of 1787, and the United Nations Universal Declaration of Human Rights are attached. (RS)

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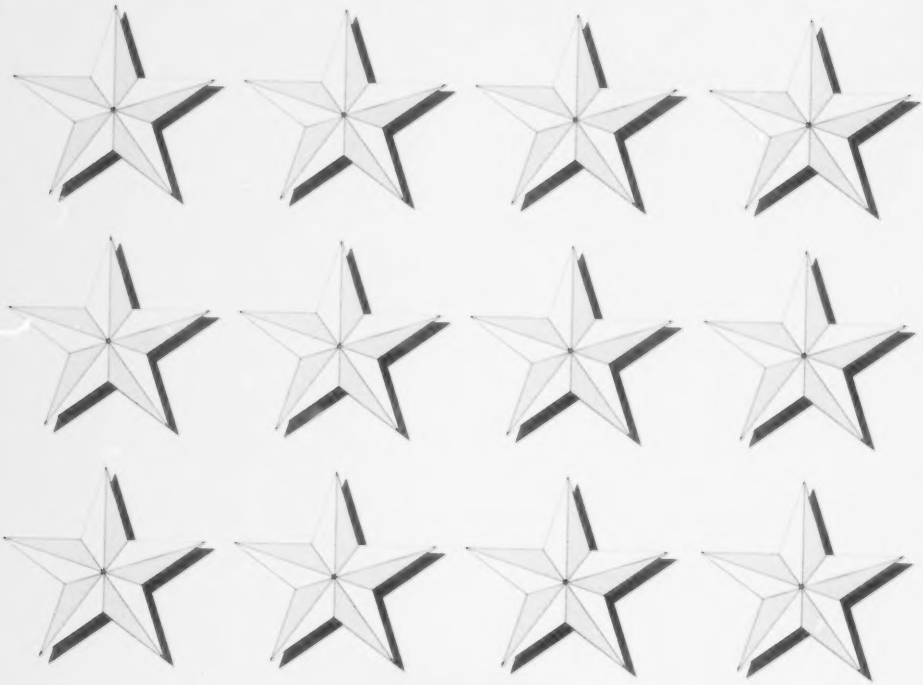
TEACHING RESOURCES IN THE ERIC DATABASE
TRIED
ED334622

A High-School Student's Bill of Rights

Stephen S. Gottlieb



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Clearinghouse on Reading and Communication Skills
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EDINFO PRESS

CS507525

A High-School Student's Bill of Rights

by Stephen S. Gottlieb

EDINFO Education Information Press

in cooperation with

ERIC Clearinghouse on Reading and Communication Skills
Clearinghouse for Social Studies/Social Science Education

Co-Published 1991 by:
EDINFO Press
Carl B. Smith, Director
2805 East 10th Street, Suite 150
Indiana University
Bloomington, Indiana 47408-2698
in cooperation with
ERIC Clearinghouse on Reading and Communication Skills
Carl B. Smith, Director
and
ERIC Clearinghouse for Social Studies/Social Science Education
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ERIC (an acronym for Educational Resources Information Center) is a national network of 16 clearinghouses, each of which is responsible for building the ERIC database by identifying and abstracting various educational resources, including research reports, curriculum guides, conference papers, journal articles, and government reports. The Clearinghouse on Reading and Communication Skills (ERIC/RCS) collects educational information specifically related to reading, English, journalism, speech, and theater at all levels. ERIC/RCS also covers interdisciplinary areas, such as media studies, reading and writing technology, mass communication, language arts, critical thinking, literature, and many aspects of literacy. The Clearinghouse for Social Studies/Social Science Education (ERIC/ChESS) collects information specifically related to history, geography, civics, and other subjects that comprise the social studies curriculum in schools.

TRIED is an acronym for Teaching Resources in the ERIC Database.

This publication was prepared with funding from the Office of Educational Research and Improvement, U.S. Department of Education, under contract no. RI88062001 and contract no. RI88062009. Contractors undertaking such projects under government sponsorship are encouraged to express freely their judgment in professional and technical matters. Points of view or opinions, however, do not necessarily represent the official view or opinions of the Office of Educational Research and Improvement.

Acknowledgments: Cover concept by Lauren Bongiani.

Library of Congress Cataloging-in-Publication Data

Gottlieb, Stephen S., 1959-
A High-School Student's Bill of Rights.
(Teaching resources in the ERIC database (TRIED) series)
Includes bibliographical references.

1. Minors—Study and teaching (Secondary)—United States.
2. Children—Civil rights—Study and teaching (Secondary)—United States.
3. High school students—Civil rights—Study and teaching (Secondary)—United States.
4. Civil rights—Study and teaching (Secondary)—United States.
I. ERIC Clearinghouse on Reading and Communication Skills. II. ERIC Clearinghouse for Social Studies/Social Science Education. III. Title.
KF479.G68 1991 347.73'0793—dc20 91-2179

ISBN-0-927516-22-5

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Table of Contents

TRIED Series Introduction by Carl B. Smith vii

User's Guide viii

Foreword by John J. Patrick ix

The Limits of Your Students' Rights x

Activities Chart xii

Part One: The Courts and Basic Rights 1

A Few Concepts That Every Citizen Should Understand 2
Are All These Laws Really Necessary? 5
The Northwest Ordinance: A Forerunner to the Bill of Rights 6
The Bill of Rights 9
The Powers of Congress 11
Organization of the Federal and State Court Systems 13
Becoming a U.S. Citizen 16
International Human Rights 19

Part Two: The Rights of Criminal Suspects 23

The Rights of Adults 24
Search and Seizure 26
Terry and the "Stop and Frisk" Principle 29
Informing Suspects of Their Rights: *Miranda v. Arizona* 31
Cruel and Unusual Punishment? 34
Deciding Whether to Prosecute 36
Gideon and the Right to Assistance of Counsel 38
Selecting a Jury for a Criminal Trial 41
"Ladies and gentlemen of the jury..." 44
Free Press versus Fair Trial 47
Government Power and Press Rights 50

Part Three: The Rights of Minors and Education Law 53

A Few Points of Juvenile Law. Part A: *Gault* 55
A Few Points of Juvenile Law. Part B: *Winship* 57
Education: Is It a Right? 59
Yes, You Have to Go to School 62
The Student's Right to a Hearing upon Suspension 64
Disciplining Disabled Students 66
Ingraham v. Wright and the Teacher's Paddle 68
Who Controls the School Library? 70
Race Controversies in the Public Schools. Part A: Plessy 73
Race Controversies in the Public Schools. Part B: Brown 76
Religion and the Schools. Part A: The Establishment Clause 79
Religion and the Schools. Part B: The Free Exercise Clause 82

Part Four: Individual Freedom at School and in the Working World 87

Free Speech inside the Schoolyard 88
T.L.O. and School Searches 91

Sniffing at the Fourth Amendment 94
Students and Abortion 96
The Play's the Thing 98
Is This a Stadium or a Courtroom? 100
Your Right to Enter into Contracts 103
The Rights of Minors in the Law of Contracts and Wills 105
Work, Save, Tax, and Borrow: Teens in the Working World 107

Appendix A: The U.S. Bill of Rights 110

Appendix B: The Northwest Ordinance of 1787 113

Appendix C: The U.N. Universal Declaration of Human Rights 118

Series Introduction

Dear Teacher,

In this age of the information explosion, we can easily feel overwhelmed by the enormity of material available to us. This is certainly true in the field of education. Theories and techniques (both new and recycled) compete for our attention daily. Yet the information piling up on our desks and in our minds is often useless precisely because of its enormous volume. How do we begin to sort out the bits and pieces that are interesting and useful to us?

The TRIED series can help. This series of teaching resources taps the rich collection of instructional techniques collected in the ERIC database. Focusing on specific topics and grade levels, these lesson outlines have been condensed and reorganized from their original sources to offer you a wide but manageable range of practical teaching suggestions, useful ideas, and classroom techniques. We encourage you to use the citations to refer to the sources in the ERIC database for more comprehensive presentations of the material outlined here.

Besides its role in developing the ERIC database, the ERIC Clearinghouse on Reading and Communication Skills is responsible for synthesizing and analyzing selected information from the database and making it available in printed form. To this end we have developed the TRIED series. The name TRIED reflects the fact that these ideas have been tried by other teachers and are here shared with you for your consideration. We hope that these teaching supplements will also serve as a guide or introduction to, or reacquaintance with, the ERIC system and the wealth of material available in this information age.

Carl B. Smith, Director
ERIC Clearinghouse on
Reading and Communication Skills

User's Guide for
A High-School Student's Bill of Rights

These lessons offer practical suggestions for you in teaching your high-school students their Constitutional rights and responsibilities. The section headings of this TRIED volume show that the lessons are also an introductory study of citizenship in our society, living under the rule of Constitutional law.

- Basic Constitutional concepts: law, Congress, the courts, citizenship, human rights
- The rights of a person suspected of criminal activity
- The rights of people the age of your students, and their status before the law
- Individual rights and freedoms according to the Bill of Rights
- Three appendices containing the full texts of relevant legal codes

An "Activities Chart" (pages xii-xiii) displays the foci and types of activities (such as class discussion, critical reading and writing, audio-visual resources) recommended in each of the lessons. Instead of a bibliography at the end of the book, additional resources are listed throughout, each one selected according to its appropriateness for the lesson in which it appears.

LESSON DESIGN

These lessons offer ideas that were first tried and tested in the classroom environment, and then reported in the ERIC database. The ED numbers for sources in *Resources in Education* (RIE) are included to enable you to go directly to microfiche collections for the complete text, or to order the complete document from the ERIC Document Reproduction Service (EDRS). The citations to journal articles are from the *Current Index to Journals in Education*, and these articles can be acquired most economically from library collections or through interlibrary loan.

Beginning with the resources as found in the ERIC database, these lessons have been redesigned with a consistent format for your convenience. Each lesson includes the following sections:

- **Source** (your reference to the original in the ERIC database)
- **Brief Description**
- **Objective**
- **Procedures**
- **Personal Observation**
- space for your own **Notes/Comments**

The lessons are addressed to you, the teacher. In many instances, the TRIED text also addresses your students directly. These directions to the students are bulleted "•". Read these instructions to your students, or revise them, as you prefer.

You know your students better than anyone else does. Adapt these lessons to the ability levels present in your classroom. Some of the lessons were specifically written for certain levels, but they can be modified easily. Think of these lessons as recommendations from your colleagues who TRIED them and found that they worked well. Try them yourself, improve on them where you can, and trust your students to respond with enthusiasm.

Foreword

The U. S. Bill of Rights has been a symbol and an instrument of free government since its ratification two hundred years ago in 1791. When asked about the U. S. Constitution, Americans and people around the world tend to think first about the civil liberties and rights in the Bill of Rights. During the recent democratic revolutions of Central and Eastern Europe, leaders referred, again and again, to the civil-liberties traditions of the United States as an inspiration and an example for them. The Bicentennial of the Bill of Rights in 1991 is a suitable occasion for Americans, especially young Americans in schools, to examine and reflect upon their celebrated heritage of constitutional rights and its applications to their lives. This is a good time for teachers to challenge their students to learn about the origins and development of constitutional rights in the United States. In particular, students need to investigate the critical issues about rights in U. S. history and our contemporary society, and develop their own defensible positions within these public controversies.

The proper study of constitutional issues in the late-20th century involves cases and discussions about the rights of pre-adults in the workplace and at school. This volume provides educational resources to help teachers plan and conduct classroom lessons on the constitutional rights of their students. The legal issues and judicial decisions discussed in this volume form a useful introduction to the core ideas on civil liberties and rights. The case-study method of teaching constitutional issues is presented clearly and compellingly in various lesson plans.

In its emphasis upon constitutional rights of students, critical contemporary issues, and judicial case studies, this volume is a valuable addition to the curriculum resources developed for the Bill of Rights Bicentennial. The students and teachers who use the lessons presented here will increase their knowledge and appreciation of individual rights in the United States, as they are challenged to examine and think critically about key issues in their 200-year-old Bill of Rights tradition.

John Patrick
Director, ERIC Clearinghouse
for Social Studies/Social
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The Limits of Your Students' Rights

A large segment of our society is regularly and systematically denied many of the rights of United States citizens or even resident aliens. Even the members of this group who were born in the U.S. cannot vote. They cannot freely marry. Many products that are readily available to most of us are denied to them. Decisions may be made for these people against their will and even without their knowledge.

At the same time, these same people do possess certain privileges. They do not have to work long hours. If they enter into contracts, they may be free to violate the agreements, whereas other parties may be bound. In wartime, they cannot be drafted.

We refer, of course, to children. Though born or legally residing in the United States, people under the age of majority ("minors," to use a term that aptly reflects their inferior legal status) cannot participate in the selection of those public officials who represent them. Furthermore, minors are unable to withdraw from school or hold permanent full-time jobs before reaching a certain age. They are forbidden by law to purchase alcohol, cigarettes, or guns.

The legal rights of young people vary greatly from those of adults, yet children may not be aware of what their limited rights are. Legislative and executive action can alter the scope of those rights and powers, and minors lack the power to react through voting. People entering young adulthood need to be provided with the means to understand current interpretations of their individual rights. Schools bear the responsibility of teaching students about American government and the individual's part in it. Typical social-studies courses that explain the three branches of government, the framework of the court system, and the traditional rights of Americans are not enough. Each new constitutional decision from the courts can affect the balance between individual rights and government power. Young Americans have a moral right to know about the decisions that affect their lives.

Within the following pages are details of some of the more significant judicial decisions bearing on the rights of adolescents and the rights of citizens more generally. Learning activities drawn from the ERIC database are included with the intention of making the results of the cases become real and meaningful for students. Our hope is that through reading, writing, and most important, thinking about the Court's opinions, students will begin to take a greater interest in their rights and to exercise those rights thoughtfully and intelligently.

Each chapter is designed as a separate lesson on individual rights or another legal subject. Each includes a citation to the chapter's primary source or sources in the ERIC database, a brief description of the lesson and its objectives, a checklist of the procedures to be followed, and a description of the lesson's results

and benefits. Some also include additional comments on how to expand upon the aims of the individual lesson. Sets of chapters are divided into parts which encompass lessons with similar underlying themes. Each of the parts is preceded by an introduction. Lessons that are paired as Parts A and B share their primary source and address closely related topics.

After finishing the lessons in this book, invite students to list and write about ways in which the rights of minors differ from the rights of adults. In what ways are minors deprived of their rights? Do minors possess any legal privileges that adults do not enjoy? If so, do the benefits outweigh the drawbacks? How should the rights of minors be changed, if at all?

Activities Chart

	Class Discussion	Creative Writing	Critical Reading	Critical Writing	Field Trips	Films/Videotapes	Group Activities	Guest Speakers	Newspapers	Primary Sources	Role-Playing	TV/Radio	Vocabulary Development
Part One: The Courts and Basic Rights													
Concepts for Citizens (p. 3)	X												X
Are Laws Necessary? (p. 6)	X			X	X			X	X		X		
Northwest Ordinance (p. 8)	X		X	X						X			
Bill of Rights (p. 11)	X	X	X		X	X	X			X			
Powers of Congress (p. 13)	X		X	X		X				X			
Federal/State Courts (p. 15)	X		X			X				X			
Becoming a Citizen (p. 18)	X		X	X				X		X			
International Human Rts. (p. 21)	X		X	X				X	X	X		X	
Part Two: The Rights of Criminal Suspects													
The Rights of Adults (p. 27)	X		X	X						X	X		
Search & Seizure (p. 30)	X		X	X			X				X		
"Stop and Frisk" (p. 33)	X		X	X									
Rights of Suspects (p. 35)			X	X								X	
Cruel/Unusual Punishment (p. 38)	X	X	X	X					X				
Should You Prosecute? (p. 40)	X		X	X	X								
Right to Counsel (p. 42)	X		X	X	X	X					X		
Selecting a Jury (p. 45)			X					X		X	X		
Jury Responsibilities (p. 48)			X								X		
Free Press/Fair Trial (p. 51)	X		X	X		X				X	X		
Govt. Power/Press Rights (p. 54)			X	X			X	X		X		X	

Activities Chart (continued)

	Class Discussion	Creative Writing	Critical Reading	Critical Writing	Field Trips	Films/Videotapes	Group Activities	Guest Speakers	Newspapers	Primary Sources	Role-Playing	TV/Radio	Vocabulary Development
Part Three: The Rights of Minors and Education Law													
Juvenile Law (A) (p. 61)	X		X	X			X						
Juvenile Law (B) (p. 63)			X	X				X					
Education: A Right? (p. 65)	X		X	X									
Compulsory Schooling (p. 68)	X		X	X			X						
Suspension Hearings (p. 70)	X		X	X						X	X		
Discipline/Disabled Students (p. 72)	X		X					X					
Teacher's Paddle or Corporal Punishment (p. 74)	X		X							X			
School Library/Censorship (p. 76)	X		X	X		X		X	X				
Race Controversies (A) (p. 79)			X	X		X	X		X				
Race Controversies (B) (p. 82)	X		X	X		X			X				
Religion—Establishment (p. 85)	X		X	X		X	X		X	X			
Religion—Free Exercise (p. 88)	X		X	X	X		X			X	X		
Part Four: Individual Freedom at School and in the Working World													
Free Speech in School (p. 95)			X	X			X				X		
School Searches (p. 98)	X		X	X						X	X		
Fourth Amendment Rts. (p. 101)			X	X			X	X		X			
Students/Abortion (p. 103)	X		X	X				X					
School Plays (p. 105)			X	X				X					
Stadium/Courtroom (p. 107)	X		X	X					X				
Rights/Contracts (p. 110)	X		X	X									X
Minors/Contracts & Wills (p. 112)	X		X					X					
Teens in the Workplace (p. 114)	X		X	X					X				

Part One: Introduction

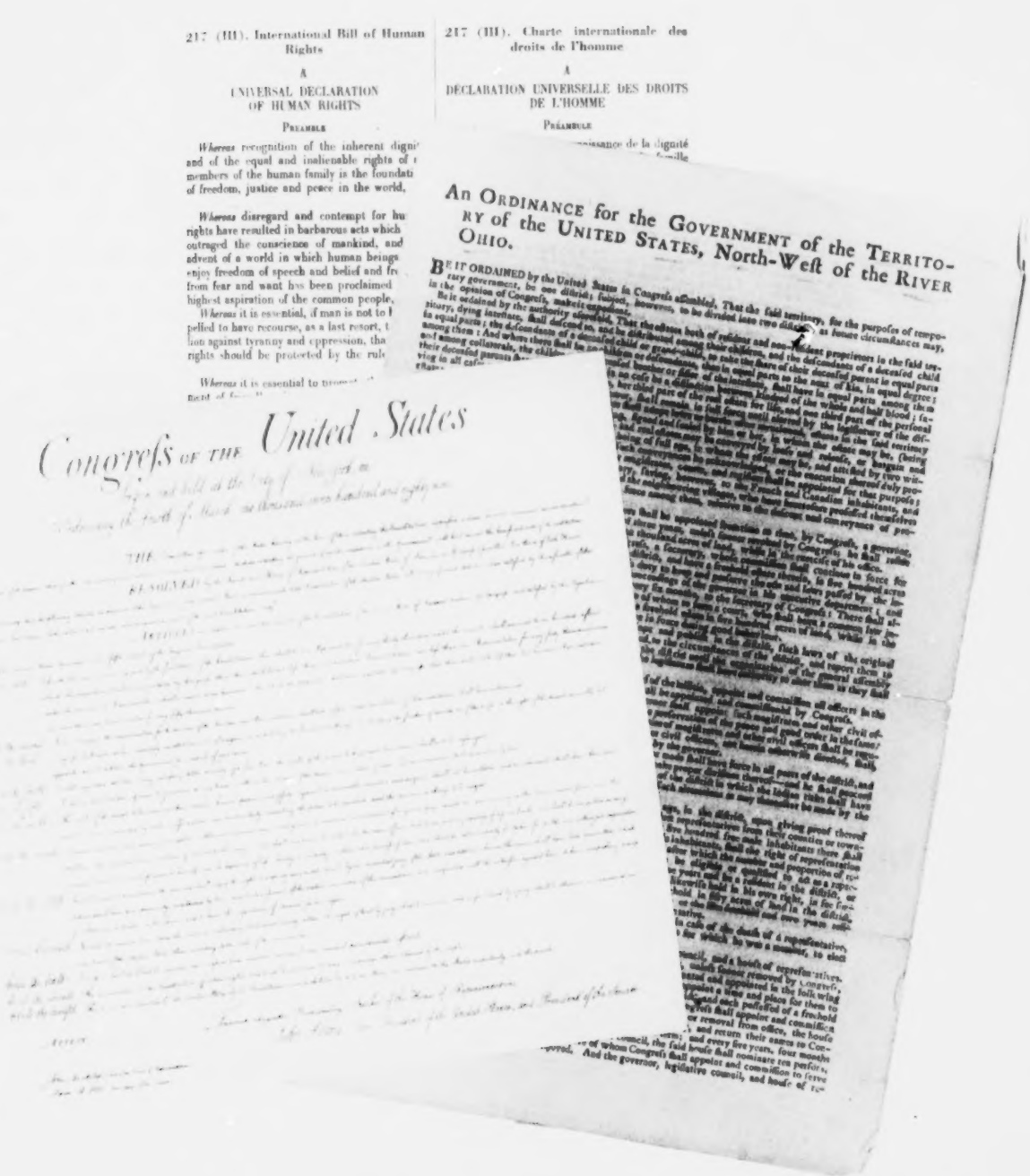
In beginning a study of individual rights, a student must have a basic understanding of some of the underlying concepts. The chapters in this part of the book explore some of the most important of these concepts and their sources. In the pages that follow, students learn about such topics as the structure of the Congress, the steps involved in becoming a naturalized United States citizen, the purpose of laws, and the contents of the Bill of Rights. In providing instruction on these substantive topics, the lessons in this first part also supply a foundation upon which later lessons are based.

As you present the lessons in this part, there are some particularly important themes to keep in mind. First among these is the primary importance of laws in the American system. In theory, at least, the written law carries more influence than any person or group. No one is above the law and no one may change the law except through the means specified in the Constitution or in the constitutions of the individual states. It is the law that holds the systems of civil and criminal law, business affairs, and even international relations together.

Another important theme of this part, and one of the ideas underlying this entire work, is the notion that a person cannot fully exercise her legal rights without understanding what those rights are.As students examine the Bill of Rights, the Northwest Ordinance, and so on, you should challenge them to come up with ways of designing our government's legal institutions that would better serve citizens.

We encourage you to repeatedly ask students if they believe a particular legal institution is fair and logical, and if it is being used in the way its planners intended. For instance, you might ask students if the modern-day Congress is operating how the Framers of the Constitution set it up to operate. Never let your students fall back on the "that's the way it's always been" argument. Challenge them to tell you why it remains that way.

The Courts and Basic Rights



217 (III). International Bill of Human Rights

A

UNIVERSAL DECLARATION OF HUMAN RIGHTS

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

217 (III). Charte internationale des droits de l'homme

A

DÉCLARATION UNIVERSELLE DES DROITS DE L'HOMME

PRÉAMBULE

Considérant que la reconnaissance de la dignité inhérente à tous les membres de la famille humaine et de leurs droits égaux et inaliénables constitue le fondement de la liberté, de la justice et de la paix dans le monde,

Considérant que la méconnaissance et le mépris des droits de l'homme ont conduit à des actes de barbarie qui révoltent la conscience de l'humanité et que l'avènement d'un monde où les êtres humains seront libres de parler et de croire, libérés de la terreur et de la misère, a été proclamé comme la plus haute aspiration de l'homme,

Considérant qu'il est essentiel que les droits de l'homme soient protégés par un régime de droit pour que l'homme ne soit pas contraint, en suprême recours, à la révolte contre la tyrannie et l'oppression,

Considérant qu'il est essentiel d'encourager le développement de relations amicales entre nations,

An Ordinance for the Government of the Territory of the United States, North-West of the River Ohio.

Be it ordained by the United States in Congress assembled, That the said territory, for the purposes of temporary government, be one district; subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

Be it ordained by the authority aforesaid, That the estates both of resident and non-resident proprietors in the said territory, dying intestate, shall descend to, and be distributed among their children, and the descendants of a deceased child in equal parts; the descendants of a deceased child or grand-child to take the share of their deceased parent in equal parts among them: And where there shall be no children or descendants, then in equal parts to the next of kin, in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate shall have in equal parts among them their deceased parents' share; and there shall in no case be a distinction between kindred of the whole and half blood; saving in all cases to the widow of the intestate her third part of the real estate for life, and one third part of the personal estate; and this law relative to descents and dower, shall remain in full force until altered by the legislature of the district. And until the governor and judges shall adopt laws as hereinafter mentioned, estates in the said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her in whom the estate may be, (being of full age) and attested by three witnesses; and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed and delivered by the person being of full age in whom the estate may be, and attested by two witnesses, provided such wills be duly proved, and such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrates, courts and registers shall be appointed for that purpose; and personal property may be transferred by delivery; saving, however, to the French and Canadian inhabitants, and other settlers of the said territory, their laws and customs now in force among them, relative to the descent and conveyance of property.

Be it ordained by the authority aforesaid, That there shall be appointed from time to time, by Congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress; he shall reside in the district, and have a freehold estate therein, in one thousand acres of land, while in the exercise of his office.

There shall be appointed from time to time, by Congress, a secretary, whose commission shall continue in force for four years, unless sooner revoked; he shall reside in the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of his office. It shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department, and transmit authentic copies of such acts and proceedings, every six months, to the secretary of Congress: There shall also be a library kept in the district, consisting of such books, pamphlets, and geographical and historical works as may be purchased by Congress, or presented to the district, or to the officers thereof, by the inhabitants of the district, or others; and the secretary shall keep the same in his office, for the use of the inhabitants and officers of the district, and shall, moreover, lay before the house of representatives, from time to time, copies of all laws passed by the legislature, and every six months, or oftener in his discretion, shall lay before the house of representatives a copy of all proceedings in the district, and transmit a like copy to the president of Congress, for the information of the general assembly.

There shall be appointed from time to time, by Congress, three judges of the district, any two of whom shall form a court, who shall have a common law jurisdiction, and reside in the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of their offices. The governor and judges, or a majority of them, shall adopt and publish in the district such laws of the original states, criminal and civil, as may be necessary, and best suited to the circumstances of the district, and report them to Congress from time to time, which laws shall be in force in the district until the organization of the general assembly therein, unless disapproved of by Congress; but afterwards the legislature shall have authority to alter them as they shall think fit.

Congress of the United States

1

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The Courts and Basic Rights

A Few Concepts That Every Citizen Should Understand

Source

ED 220 650

Milner, Donald E. "Teaching Indirectly Related Subjects in Vocational Education (Teaching Unit)." Washington, D.C.: Appalachian Regional Commission (1981) 121 pp.

Brief Description

Students examine some of the basic concepts of the American form of government through reading and discussion.

Objective

To learn about important terms such as democracy and republic, and to review the framework of American government and the requirements for office holders.

Procedures

The day before: Ask students to look up in a dictionary the term "democracy" and "republic," and to write their own definitions for each term.

- What do you understand the term "democracy" to mean? Discuss the word in class, and list several definitions on the board.
- What do you think the term "representative democracy" means? Discuss what this expression adds to the notion of democracy.
- In class, discuss the difference between a "republican" form of government and the "Republican Party." Look up *res publica* in an unabridged dictionary, and refer to the definitions of related terms listed there, such as "commonwealth."
- There are three branches of the U.S. national government. On the chalkboard, write what they are. Discuss the roles of each.
- Discuss the positions of President of the United States, United States Senator, Representative, and Supreme Court Justice. Read the following description of each post:

The President must be a natural-born citizen of the United States. To hold the office, a person must be at least 35 years old. The term of office is four years, and a person can be elected to two terms or serve up to ten years. (The Twenty-second Amendment states that a person can run for President only twice, and can run only once if the person has completed more than two years of another President's term.)

A Senator must have been a citizen of the United States for at least nine years. To hold the office, a person must be at least 30 years old, and must live in the state from which he or she is elected. Once elected, a senator serves a six-year term. Each state has two U.S. senators, so there are 100 in all.

Members of the House (known as "representatives," and sometimes called "Congressmen," although Senators are also members of the Congress) must have been citizens for at least seven years, and must live in the states from which they are elected. A representative, who must be at least 25 years old, serves a two-year term of office. The number of representatives a state has depends upon its population. There is no limit to the number of times a senator or representative can run for office.

Supreme Court justices are nominated by the President and are then confirmed or rejected by the Senate. A justice, like other federal judges, is appointed to office for life. There are currently nine seats on the Supreme Court, although the number has changed from time to time throughout American history. Surprisingly, there are no age requirements for justices, and nothing in the Constitution requires a justice to be a lawyer.

- Discuss the following questions:

A. Why do you think the President has to be a natural-born U.S. citizen?

B. Why do you think there are two Senators for each state, although the number of Representatives is based upon a state's population?

C. Senators and members of the House, unlike the President, do not have to be native-born Americans to hold their offices. Should they have to be?

D. Should the number of terms a person can serve in either house of the Congress be limited? Why or why not?

E. Should the President be limited to two terms? Why or why not?

Comments

Your students can explore the requirements and duties of state officeholders: the governor and state legislators. Individual states' requirements and duties may differ. Such a lesson will help prepare students for their impending role as adult citizens and voters.

F. Should Supreme Court justices be elected by the people, as are the President, Senators and members of Congress, rather than being appointed by a politically-inclined President? Why or why not? Should the justices be limited to shorter terms of office than their present life-long tenure? Why or why not?

Results/Benefits

The class learns about the three branches of government, and discovers and discusses details about the office holders who have the broadest influence on American life: the President, Senators, and Representatives, and Supreme Court Justices.

The Courts and Basic Rights

Are All These Laws Really Necessary?

Brief Description

Students take part in discussion, writing, and role-playing activities designed to help them understand the large role that the law plays in all facets of daily life.

Objectives

To enable the learners to comprehend and explain what law is and what it does.

Procedures

- Imagine a world without any laws or rules. Think about riding to school through morning traffic that is not regulated by any traffic laws.
- Make a list of all the rules that affect your life as you go through your daily routine.
- Think of problems at home, in school, and in the community that a new law might help solve. Is there an existing law that could solve the problem if it were used as it should be?
- Read carefully through a newspaper. Make a list of stories you find that relate to laws, rules, and regulations.
- Write a short paper explaining what you understand to be the meaning of the word "law." What does law do?

Results/Benefits

Students, many of whom may never have given law and the legal system a second thought, take a critical look at what the law is and what it could be. As young people approach voting age, teachers can help them adopt a broader understanding of the role of their elected representatives as lawmakers.

Additional Resource

Cowen, Zelman, "Written Constitution or None: Which Works Better?" *Update on Law-Related Education 11* (Fall 1987) p. 9-11, 49.

Source

ED 289 665

Carey, John J., "Law Related Education Curriculum." New Mexico: Crownpoint Institute of Technology (1987) 130 pp.

Comments

A state legislator may be available to talk with your class about the importance of laws. Ask your students to prepare questions for the visit. Students may also be able to observe legislative sessions at the state capitol.

The Courts and Basic Rights

The NORTHWEST ORDINANCE: A Forerunner to the BILL OF RIGHTS

Source

ED 272 438

Patrick, John J., "Lessons on the Northwest Ordinance." Bloomington, IN: Indiana University, Social Studies Development Center (1986) p. 24-28.

Brief Description

Students read portions of the *Northwest Ordinance* and answer questions about the document.

Objective

To learn about the significance of the *Ordinance* as an important precursor of and model for the *Bill of Rights*.

Procedures

Photocopy page 11 for distribution to your students.

Results/Benefits

Students increase their understanding of civil liberties through study of one of the most important early American documents on the subject. The lesson is a useful step in gaining an appreciation of the rights guaranteed by the Constitution.

ANSWERS:

A. Y, VI	E. Y, III	H. N, V
B. N, I	F. N, II	I. N, II
C. N, VI	G. Y, II	J. Y, II
D. Y, V		

Followup Activities

Other documents that preceded the Constitution were also influential in its drafting. For instance, the state of Virginia provided broad religious freedom to its citizens before the U.S. Constitution was written. Historians believe that James Madison adopted ideas and language from Virginia law when he drafted the Bill of Rights. Provide your students with a copy of your state's constitution. Ask them if it guarantees citizens the same rights that the U.S. Constitution does. Is it any broader?

- Read portions of the *Northwest Ordinance.*
- Answer each of the following "yes or no" questions about the *Ordinance,* and give the number of the Article that you think supports each answer.

A. Involuntary servitude was not permitted.

Y N Number of Article:

B. Only people with Christian religious beliefs had full rights of citizenship.

Y N Number of Article:

C. Persons held as slaves in another territory or state who escaped to the Northwest Territory were considered free and could not be returned to their owners.

Y N Number of Article:

D. To be admitted into the Union, a territorial government had to draft a state constitution that agreed with every part of the Northwest Ordinance.

Y N Number of Article:

E. Schools and other means of education were to be encouraged by territorial and state governments.

Y N Number of Article:

F. Inhabitants of the Northwest Territory were denied the privilege of the writ of *habeas corpus.*

Y N Number of Article:

G. Property rights were protected by law.

Y N Number of Article:

H. Inhabitants of a territory could draft a constitution that provided any type of government; as long as it was approved by the majority of the eligible voters of the territory, it would be acceptable to the U.S. Congress.

Y N Number of Article:

I. Only property owners had the right of trial by jury when accused of a crime.

Y N Number of Article:

J. The government had no right to interfere with private contracts made lawfully and without fraud.

Y N Number of Article:

- After answering the questions, discuss your answers in class. Support your answers with references to articles in the *Northwest Ordinance.*

Comments

To complete the lesson, ask your students if they can think of any important rights that are not mentioned in the *Northwest Ordinance*. Invite your students to discuss why they think the *Ordinance* banned slavery in the Northwest Territory, but did not give freedom to escaped slaves who arrived there.

Additional Resource

Baxter, Maurice., "The Northwest Ordinance—Our First National Bill of Rights." *OAH Magazine of History* 2 (Fall 1988) p. 13-14.

The Bill of Rights

Brief Description

Students read relevant portions of the Constitution, then discuss and draft their own bill of rights.

Objective

To give young people a sense of the complexity of setting up a plan of government and of individual rights while also prompting an unusual writing exercise.

Procedures

- Read the Preamble to the Constitution, the first ten amendments (the Bill of Rights) and section 1 of the Fourteenth Amendment (the Due Process Clause). (These are included in Appendix A.)
- In a class discussion, give your opinion of what should be included in a Students' Bill of Rights. Your teacher will write student suggestions on the chalkboard. Revise the suggestions according to your own sense of what is right and fair.
- After the class has divided into teams, your team is assigned to prepare one major right to be included in the Students' Bill of Rights. Your team also writes an article supporting the right.
- Once the Students' Bill of Rights has been drafted, consider the following questions.

A. In drafting the Students' Bill of Rights, did you consider the rights of minorities in the school community (teachers, principals, the school board)?

B. If the minority rights were not protected, did you think about what dangers this poses for the rights of the majority (the students)? Did you figure in the dangers to the minorities?

Source

ED 250 262

Howard, Estelle, "Students Are Also Citizens: First Amendment Rights of Students." Los Angeles: Constitutional Rights Foundation (1977) p. 4.

Comments

As a follow-up exercise, obtain a copy of, or describe, school rules as they pertain to students. Ask your students to identify rules that they think violate their rights. Discussion will follow naturally.

C. In drafting the Students' Bill of Rights, did you think about each citizen's responsibility in seeing to it that the system works? How will the system be protected? Did you figure out a way to make changes, if those turn out to be necessary later?

D. Did you make plans for how school officials can maintain control? Is that necessary, in your opinion?

E. Did you think about the prime purpose of school? Is it learning?

Additional Activities

Show the videotape, "America Becomes a Nation: A More Perfect Union," in class. The two-hour production portrays the Constitutional Convention and the personalities who took part in the historic meeting. The tape is a production of the Motion Picture Studio, 207 MPS, Brigham Young University, Provo, UT, 84602, phone (801) 378-2525.

Your students can get a sense of the history of the Constitution by travelling to the places where the Framers wrote it. If your school is too far away to visit the historic sites where America's government took shape, see them via videotape. The National Park Service produced such a tape to commemorate the Bicentennial of the Constitution. To get a copy of the sixteen-minute program, contact the National Archives' National Audio-Visual Center at (800) 638-1300 or the Eastern National Parks and Monuments Association, P.O. Box 47, Yorktown, VA 23690. The Association's phone numbers are (804) 898-3383 and (800) 821-2903.

Results/Benefits

The students have a greater grasp of the notion that drafting a constitution means more than passing out rights to everyone: conflicts among the rights of different segments of the citizenry have to be mediated; rights are claimed and held through the negotiation of differences. Citizenship carries certain duties and responsibilities: "I'll uphold your rights; you uphold mine."

Additional Resource

McGovern, Judith C. "The Bill of Rights." *Social Studies Review* 27 (Fall 1987) p. 66-68.

The Powers of Congress

Brief Description

Students learn about the original understanding of the powers of the United State Congress by reading the views of those who helped establish the body.

Objective

To discover the scope of the powers of Congress as originally intended by the framers of the American government.

Procedures

Photocopy page 12 for distribution to your students.

Additional Activities

For further activities, refer to the curriculum guide, *We the People....* (1987) (ERIC number ED 292 692), available from the Center for Civic Education, 5146 Douglas Fir Road, Calabasas, CA 91302, phone (818) 340-9320. The guide suggests teaching strategies for upper elementary, middle, and high school use. The package includes lessons on the structure of the federal government.

Your students can gain a stronger appreciation of the purposely limited role of the federal government by viewing the video, "Limited Government and the Rule of Law," available from the Agency for Instructional Technology, Box A, Bloomington, IN 47402, phone (812) 339-2203. The program is one of six on Bill of Rights issues, and is accompanied by a teacher's guide.

Results/Benefits

Students have thought about a problem that lawyers and constitutional scholars still debate: how much power Congress can assume within the constraints of the Constitution. The problem remains an important one, as it is central to many of the disputes that arise to this day between the three branches of the federal government and between the federal government and the state governments.

Source

ED 293 791

Lyman, Lawrence K.; Foyle, Harvey C. "Cooperative Learning: Experiencing the Constitution." Paper presented at the Rocky Mountain Regional Conference of the National Council for the Social Studies (Salt Lake City, UT, April 8-9, 1988) p. 12.

Comments

You can instruct your students to discuss some current issues that involve the scope of congressional power. Ask students whether it would be constitutional for Congress to pass a law telling the President who should be the Secretary of State, telling the Supreme Court how to decide a particular case, or telling a state governor how to run a local school system.

- Read the following introduction and these excerpts from essays by Thomas Jefferson and Alexander Hamilton.

Introduction

President George Washington sought written opinions about whether Congress could establish a national bank. In 1790 Alexander Hamilton, Secretary of the Treasury, proposed a national bank which would expand the national economy and act as the government's financial agent. Thomas Jefferson, Secretary of State, argued that the bank would help northern seaboard interests and not southern farmers. The issue turned on a point of interpretation: how broadly to read the powers granted to Congress.

Jefferson's "Strict Constructionist" Opinion

I believe that the foundation of the Constitution lies on this principle—that "all powers not delegated to the United States, by the Constitution, nor prohibited by it to the states, are reserved to the states, or to the people." To take a single step beyond these specific limits to the powers of Congress, is to grasp unlimited power.

Hamilton's "Broad Constructionist" Opinion

Congress has implied as well as express powers. For the sake of accuracy, it should be mentioned that Congress also has what might be called resulting powers. For example, if the United States conquered a neighboring territory, it would have jurisdiction there. The jurisdiction would come from the whole mass of powers of the government, rather than from any of the specifically enumerated powers.

- Write out your answers to the following questions:

A. According to Jefferson, why did the Constitution not give Congress the power to set up a national bank?

B. According to Hamilton, what justification was there for a broad interpretation of the Constitution?

C. By 1819, the Supreme Court decided that Congress did have the power to charter a national bank. If the narrow interpretation of the Constitution (known as "strict constructionism") had won out and new events could not bring new interpretations of the Constitution, the United States would be different today. List and explain at least five ways the U.S. would be different.

The Courts and Basic Rights

Organization of the Federal and State Court Systems

Brief Description

Students read about the structure of the American court system and consider the role of the Supreme Court in interpreting the Constitution.

Objective

To acquire a broader understanding of what the courts are and how they work, and how Supreme Court decisions can have widespread effects.

Procedures

Photocopy pages 14 and 15 for distribution to your students.

Additional Activities

Give your students a look at the history and the purpose of the United States Supreme Court. Obtain the videotape, "This Honorable Court," from WETA, P.O. Box 2626, Washington, DC 20013, or call (202) 988-2626. The tape includes two one-hour programs hosted by Paul Drake.

Results/Benefits

Students observe the many stages of federal and state judicial processes and how they relate to one another. This understanding is necessary in subsequent lessons to understand the movement of cases through the courts.

Source

ED 301 530

Gallagher, Arlene F., ed. "Teaching Our Tomorrows: Special Programs in Citizenship Education." Winston-Salem, NC: Center for Research and Development in Law-Related Education and Wake Forest University School of Law (1987) 174 pp.

Additional Resource

Brown, Pamela J., James A. Snyder, and Rick Mibrison. *American Law Source Book*. Chicago: Young Lawyers Division of the American Bar Association (1989).

- Read the following explanation of how the federal and state court systems are set up.

In the United States there are two separate but interrelated court systems, the federal and the state. The two are arranged in similar ways.

On the federal level, trials are held in what are called district courts. There are 94 district courts located around the United States and its territories.

When a party disagrees with a legal decision made by a federal district court judge, that party may ask one of twelve federal Circuit Courts of Appeals to review the decision. These courts are spread across eleven numbered regions of the country, and the twelfth court is for the District of Columbia. An appeal is heard by the Circuit Court located in the region in which the district court decided the case.

After losing in the Court of Appeals a party may ask the United States Supreme Court for review. The Supreme Court does not have to hear a case; it only takes a case if four of the Court's nine justices agree to do so.

State courts are arranged similarly to the federal system. In most states there is a trial level, an intermediate appellate level, and a supreme court. Some states do not have the mid-level appellate courts, and the courts of some states are named differently than in the federal system. (For instance, New York's trial courts are called "supreme" courts, whereas the highest court in that state is the Court of Appeals.)

Once a case passes completely through a state's court system a party can bring an appeal directly to the U.S. Supreme Court. Again, the Court is free to accept or refuse the case.

One of the main duties of Supreme Court justices is to decide in specific cases what the various parts of the Constitution mean and whether laws passed by Congress and other government bodies are constitutional. The power of the Court to consider laws in this way is known as "judicial review."

The Supreme Court also has "original jurisdiction" over some kinds of cases. This means that the case can begin in the Supreme Court rather than being referred from a lower court. For example, the Supreme Court is the trial court for cases involving ambassadors or disputes between states.

Appeals courts, including the U.S. Supreme Court, hand down what are called "opinions" after they hear cases. In these opinions, the members of the court give their reasons for arriving at a decision. When more than half of the members of

the court agree on a given result and the reasons for it, they will hand down a majority opinion. If a member of the court agrees with the result of the case, but for different reasons than those stated in the majority opinion, that judge may write a separate concurring opinion. A judge who disagrees with the majority's result and reasoning may write a dissenting, minority opinion. All of these opinions are helpful to lawyers, police agencies, and teachers, as the opinions give an idea of how the court may decide other cases in the future.

- Read the Second Amendment, which follows. Write a paper about what you think it means.

  "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

- Discuss your papers in class. Notice that not everyone has exactly the same idea about the meaning of the amendment.

- Discuss what would happen if there were no Supreme Court to make a final decision about what the Second Amendment and the rest of the Constitution means.

The Courts and Basic Rights

Becoming a U.S. Citizen

Source

ED 301 703

Edgar, S. Keith. "Law and Government: Teacher Guidebook and Student Activity Book." Warren, Ohio: Warren City Schools (1976) 142 pp.

Brief Description

Students explore citizenship by investigating what new U.S. citizens are taught.

Objective

To become knowledgeable about the rights and privileges, as well as the duties and responsibilities, that correspond with American citizenship.

Procedures

- Read and discuss the following requirements for applying for naturalization, the process by which a foreign-born person becomes an American citizen.

A person must have lived in the United States for at least five years just before applying, must not have been out of the U.S. for a continuous period of a year or more during those five years, or been out of the U.S. for more than a total of 30 months during those five years. The person must have spent the last six months of those five years in the state in which the person is applying for naturalization.

According to immigration law, people in the following groups cannot apply for naturalization: habitual drunkards; adulterers; polygamists; persons illegally connected with prostitution, narcotics or other crimes; convicted gamblers or persons getting their principal income from illegal gambling; persons who lie under oath to get benefits under immigration or naturalization laws; persons convicted and jailed for as much as 180 days; and persons who belonged to or had connections with the Communist Party or similar organizations during the ten years prior to filing for naturalization.

- Why would an immigrant want to become a naturalized U.S. citizen? These are some of the benefits:

Citizens are eligible for jobs not open to aliens; they can serve on juries, vote in all elections, and run for office. Citizens do not have to register with the government as resident aliens do,

and they do not have to notify the Immigration and Naturalization Service (INS) if they move from one part of the country to another.

- Read the following passage. It is the oath taken by people when they become naturalized citizens of the United States.

I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will bear arms on behalf of the United States when required by law; that I will perform noncombatant service in the Armed Forces of the United States when required by law; that I will perform works of national importance under civilian direction when required by the law; and that I take this obligation freely and without any mental reservation or purpose of evasion; so help me God. In acknowledgement whereof I have hereunto affixed my signature.

- Before becoming naturalized citizens, applicants must pass a test containing questions about the American system of government. Write answers to the following commonly asked citizenship questions. Could *you* pass the test for becoming a citizen?

A. Who presides over the Senate?

B. Who presides over the House, and how is that person chosen?

C. Who are the officials that make up the Executive Department of the federal government?

D. Can the President be removed from office? If so, how?

E. How long do federal judges hold office? Can they be removed?

F. What are the first ten amendments to the Constitution called?

G. How is an amendment prepared and submitted?

H. Who are the present governor of, and U.S. Senators from, your state?

Comments

Discuss with your students the need of the government to control immigration and screen applicants for citizenship.

A representative of the INS could be invited to class to talk about becoming a citizen and the problem of illegal immigration. The class might be able to observe a "swearing-in" ceremony for new citizens in your community, or in a nearby city.

- Discuss the following questions in your class:

Do you think that the moral and political restrictions of the immigration laws are fair, reasonable, and constitutional? Why should an immigrant have to satisfy a moral code if this is not required of native-born citizens?

Results/Benefits

Students get a look at American citizenship from an unusual perspective: that of the immigrant seeking naturalization. They learn facts about citizenship that many native-born Americans may take for granted or may never even consider.

The Courts and Basic Rights

International Human Rights

Brief Description

Through readings, students are exposed to the arena of international human rights. They see how the United Nations and the Universal Declaration of Human Rights evolved during the twentieth century.

Objective

To appreciate human rights as both a national and global concern, and to realize that Americans do not have a monopoly on civil liberties.

Source

ED 266 996

Croddy, Marshall; Maxey, Phyllis, "International Law in a Global Age." Los Angeles: Constitutional Rights Foundation (1982) 100 pp.

Procedures

- Consider the following essay on the development of international human rights.

Although many Americans believe that their government offers more freedoms to its citizens than any other country, it is important to realize that the United States is not alone in its demand for the recognition of human rights. After World War I, and even more so since World War II, there have been serious efforts to find peaceful solutions to the kinds of international disputes that set off the two great wars.

One early peace effort, led by American President Woodrow Wilson, resulted in the creation of the League of Nations. Countries that joined the organization agreed to submit their disputes to negotiation rather than warfare. Unfortunately, Wilson died without getting his own Congress to approve American membership in the League. Without such an important country in the organization, the League of Nations eventually collapsed.

During the 1930s, Nazi Germany began a military buildup that violated the peace treaty that ended World War I. Without an international organization to resist the Nazis, Germany was able to move into neighboring territories with little difficulty. Japan was making similar attacks on its own neighbors in Asia. By 1939, a second world war was

Comments

Ask your students to choose one of the human rights listed in one of the four categories and to write a paragraph explaining why it is so important to them.

underway, and the United States entered the war two years later.

When World War II ended in 1945, Germany was divided in two, Japan was digging out from two atomic bomb blasts, and many European cities were in ruins. It was clear that something had to be done to keep such destruction from ever happening again. The United Nations was established to provide a forum for discussion of arguments between nations. The UN became even more important when the U.S. and Soviet Union became rivals, each with the ability to destroy the world with nuclear missiles. While American and Soviet representatives regularly denounced each other at UN meetings, such bad diplomatic relations were obviously better than the mass death and destruction that a global nuclear war would bring.

One of the U.S. government's most common complaints against the Soviet Union in the postwar years concerned the Soviet government's treatment of its own people. American officials charged that Jews, other ethnic minorities, and those who criticized the Soviet government were deprived of basic human rights. Dissidents were jailed or even placed in mental asylums. Here again the United Nations gave the two sides a place to state their views, and was able to express a degree of unified international condemnation of human rights violations, wherever they occurred.

- Following World War II, most nations saw the need for a basic statement of rights for all people of all nations. In 1948, the Universal Declaration of Human Rights was adopted by the United Nations. Read the excerpts from the Declaration (see Appendix C).

- Human rights fall into four basic categories:

A. Fundamental rights: rights dealing with the value and dignity of human life and freedom from physical mistreatment and forced labor.

B. Political and civil rights: freedom of expression, choice, religion, and privacy, and the right to be treated equally and fairly by the government.

C. Economic rights: property and work rights as well as the right to have adequate food, clothing, shelter, and medical care.

D. Social rights: family, educational, and cultural rights.

- Find rights in the Declaration that fit into the four categories. Some rights may apply to more than one of the

groupings. In groups, decide which rights fit into which categories and discuss your choices in class.

- Think about conditions under which these rights take on added importance. Do you think these rights would seem more valuable to you when they are threatened? When they are taken away or violated?

Additional Activities

Ask your students to bring in newspaper articles and to make note of television and radio reports about international human rights issues. Discuss the reports in class. If possible, invite a representative of Amnesty International or a similar group to address the class.

Results/Benefits

Students realize that the subject of human rights is a genuine concern both inside and outside of the United States. The students seriously consider the importance of each of the guarantees set out in the Universal Declaration of Human Rights.

Additional Resource

ED 310 387

Paraschos, Manny. *Constitutional Provisions on the Press: A World View*. Washington, DC. Paper presented at the 72nd Annual Meeting of the Association for Education in Journalism and Mass Communication, August 10-13, 1989. 26 pp.

Part Two: Introduction

To help students appreciate the extent and limitations of their own rights, it is beneficial for them to analyze the greater number and scope of rights provided to adults. As the first chapter in this Part explains, adults possess much broader rights than minors do. To put this notion in practical terms, a legal alien who recently arrived in this country, but happens to be 18 years of age, enjoys many more freedoms that does her 17-year-old cousin who was born and raised in the United States.

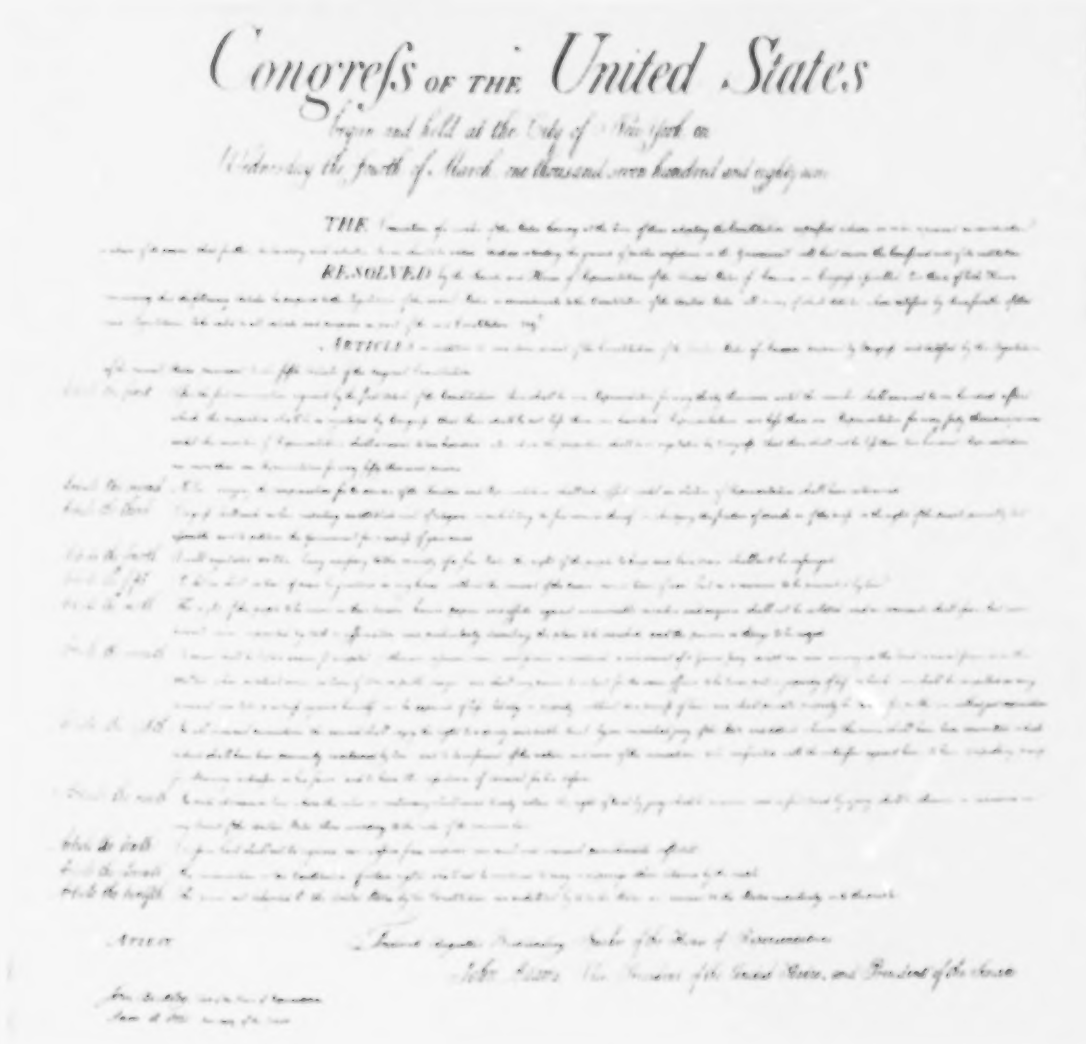
Many of the chapters in Part Two deal with the constitutional rights of adult criminal suspects. It is in the criminal law setting that the constitutional rights of adults come into conflict with government power most often. In the opening chapters of this Part, we explore search and seizure issues through study of the landmark U.S. Supreme Court cases *Mapp v. Ohio* and *Terry v. Ohio*. We review *Miranda v. Arizona*, the case that established that criminal suspects must be advised of certain rights upon arrest. Students familiar with TV police shows can probably recite the litany of rights from memory, but they may be unaware of the significance of these rights. The Eighth Amendment ban on cruel and unusual punishment is also analyzed in this Part, as is the power of prosecutors to decide who is charged, and with what crime. The right of a poor person who is accused of a crime to have legal assistance is analyzed in a study of the case of *Gideon v. Wainwright*.

Students get an opportunity to practice jury selection and to decide a hypothetical criminal case in two of the lessons in this Part. Your class will be able to observe processes that few adults experience.

In the final two lessons of this Part, we look at conflicts that sometimes arise between the government and the press. In a study of *Sheppard v. Maxwell*, students consider the difficult problem of both guaranteeing a person a fair trial and guaranteeing the news media the right to report on developments in a highly controversial case. We also scrutinize the questions of whether police can search a newspaper's files and whether reporters can be forced to reveal the identities of their confidential sources.

We urge you to continually challenge your students to compare the results of the Supreme Court cases studied against the literal text of the relevant constitutional provisions. Ask, for example, if a plain reading of the First Amendment would appear to allow police to search a newspaper's files for evidence against suspects having no connection to the paper. Encourage discussion of how cases have been decided by the courts, and whether your students agree with the results.

The Rights of Criminal Suspects



Congress of the United States

begun and held at the City of New-York, on

Wednesday, the fourth of March, one thousand seven hundred and eighty-nine.

THE Conventions of a number of the States having at the time of their adopting the Constitution expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government will best ensure the beneficent ends of its institution.

RESOLVED by the Senate and House of Representatives of the United States of America, in Congress assembled, two thirds of both Houses concurring, that the following articles be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States, all or any of which articles, when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes as part of the said Constitution, viz.

ARTICLES in addition to, and amendment of, the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth article of the original Constitution.

ARTICLE the first. After the first enumeration required by the first article of the Constitution, there shall be one Representative for every thirty thousand, until the number shall amount to one hundred, after which the proportion shall be so regulated by Congress, that there shall not be less than one hundred Representatives, nor less than one Representative for every forty thousand persons, until the number of Representatives shall amount to two hundred; after which the proportion shall be so regulated by Congress, that there shall not be less than two hundred Representatives, nor more than one Representative for every fifty thousand persons.

ARTICLE the second. No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.

ARTICLE the third. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE the fourth. A well regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed.

ARTICLE the fifth. No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE the sixth. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE the seventh. No person shall be subject, for the same offence, to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ARTICLE the eighth. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

ARTICLE the ninth. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

ARTICLE the tenth. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE the eleventh. The enumeration in the Constitution of certain rights, shall not be construed to deny or impair the others retained by the people.

ARTICLE the twelfth. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

ARTICLE

Frederick Augustus Muhlenberg Speaker of the House of Representatives.

John Adams Vice-President of the United States, and President of the Senate

John Beckley Clerk of the House of Representatives.

Sam. A. Otis Secretary of the Senate

The Rights of Criminal Suspects

The Rights of Adults

Source

ED 256 671

MacFarlane, David E., "On Being 18: Your Legal Rights and Responsibilities." Madison, WI: Wisconsin Bar Foundation, p. 1.

Brief Description

To help students understand the rights of minors through comparison to the rights of adults, and through study of relevant laws.

Objective

To enable students more fully to appreciate the limited scope of the rights of minors, it is helpful to compare them with the rights of adults. Some organizations have published guides that explain the rights of residents of particular states.

Procedures

- Read the following, adapted from the "General Principles" section of David E. MacFarlane's booklet, "On Being 18: Your Legal Rights and Responsibilities."

The Legal Significance of Becoming an Adult

In most states, a person is considered an adult when he or she reaches the age of 18. Upon becoming an adult, a person can vote, make non-voidable contracts (minors generally have the right to disregard contracts into which they have entered), and be independent.

While many states set the drinking age at 21, other rights arise when a person turns 18. Some typical examples are: voting in state and local elections; serving on juries; and making a will.

Along with the benefits of being an adult come certain responsibilities. Any criminal charges will be tried in adult rather than juvenile court. Parents no longer have to support most adult children. Adult males within a certain age range have to register for the military draft. Unlike juvenile delinquency hearings, adult criminal trials are generally open to the public and the press.

The rights of minors differ greatly from those of adults. Minors' ability to speak for themselves is limited, particularly in school. Minors are also subject to searches that do not require school officials to satisfy the same high standards of suspicion that police must meet before searching adults. When students are suspended from school, formal hearings on the matter are controlled by the same adults who suspended them. Students can be struck as punishment, a practice that would be condemned in a case involving even the most hardened adult criminal.

Outside of the classroom, minors also enjoy fewer rights than adults. Minors are often subject to curfew laws, and authorities are less likely to

recognize the free assembly rights of a group of minors gathered on a street corner. Citizens under a certain age (16, in most states), even if they have the ability, are denied the ability to drive motor vehicles. Similarly, even minors who are expert marksmen and unusually safety-conscious may be denied the right to bear arms that is guaranteed to adults in the Second Amendment.

Minors who "run away from home" are treated as criminals by the legal system, and even the most mature minors cannot marry or join the military without parental permission. Because of limits on their freedom of movement and the amount of parental control over their lives, minors may even be unable to practice the religion they choose. If his or her selected faith conflicts with that of a parent's, a minor's attempt to attend a different church or religious community on his own may be seen as disobeying parental commands or even as running away from home.

- Discuss the ways in which the rights of adults differ from the rights of minors. Do you see any legal benefits to being a minor?
- Write a short essay explaining why you agree or disagree with this statement: "Adults are entitled to more rights than children are."
- If there is a right that you think minors should have but do not, write out your reasons in a short paper.

Additional Activities

Explore voting rights with your students. While intended for college students, Kenneth L. Eschelman's article, "Student Voting Rights and Patterns: A Research Project," (*Political Science Teacher* 1 (Summer 1988) p. 19-21, (EJ 376 926)) contains class projects that could be adapted for use in high school, particularly in advanced placement social studies. As the article suggests, you can review with your students your state's voting laws. Conduct a mock election in class.

Examine the history of the struggle by American women to win the right to vote. Refer to Margaret Jacobsen's article, "Giving Women the Vote: Using Primary Source Documents to Teach about the Fight for Women's Suffrage," *OAH Magazine of History* 3 (Summer-Fall 1988), p. 50-52 (EJ 391 316) as a guide.

Results/Benefits

Students who are or soon will be legal adults, who might have never considered their legal rights, may begin to show an interest in those rights. After thinking critically about voting, marrying, or entering into employment contracts, your students are likely to be in a better position to make more responsible decisions on those and other subjects.

Comments

Discuss the drinking age in your home state. Ask your students whether they think the limit should be higher, lower, or the same as it is now. They probably will be eager to talk about the differences in age requirements among serving in the military (18, or 16 with parental consent), voting (18), and buying alcoholic beverages (local option; 21 in many states).

The Rights of Criminal Suspects

Search and Seizure

Source

ED 229 322

Jackson, Edwin L., "Improving Citizenship Education: Secondary Handbook." Atlanta: Fulton County Schools (1981) 613 pp.

Brief Description

Through reading, discussion and writing, students learn about the Fourth Amendment's limits on search and seizure and about the balance between individual privacy and government power.

Objective

To realize the complexity involved in weighing the citizen's freedom from intrusion against the government's need to gather evidence of crimes.

Procedures

- Read the Fourth Amendment (see Appendix A); then listen to the teacher's explanation of the phrase "search and seizure."
- Read the summary of the Supreme Court case *Mapp v. Ohio* and the article "To Search or Not to Search" and write out answers to the questions that follow each one.

Mapp v. Ohio **(1961)**

On May 23, 1957, three Cleveland, Ohio police officers wanted to question a certain person about a bombing incident. This person was reported to be hiding in Ms. Mapp's home. Without a search warrant, the police forced their way into her house. During the course of their search of the interior, officers found obscene materials. These materials were used to convict Mapp of "having in her possession certain lewd and lascivious books, pictures, and photographs." Under Ohio law then in effect, evidence obtained in an unlawful search and seizure was still admissible in a criminal prosecution. The case was appealed to the United States Supreme Court.

- After reading the Mapp summary, write a short essay in which you answer the following questions:

A. If you were a member of the Supreme Court, how would you vote on the case? Why?

B. Writing for the majority, Justice Clark said evidence obtained by a search and seizure that violates the Fourth Amendment is inadmissible in court as a matter of "due process." "Due process" in general means fairness of procedure or entitlement to the full protection of law before a governmental action can be taken against a person. What do you think the term "due process" means in Mapp's case?

C. Do you think Fourth Amendment limitations on searches should apply to a person's place of business as well as to his or her home? To the garage? The car? What about telephone conversations made from a public telephone booth? (In the 1967 case *Katz v. United States*, the Supreme Court overturned the conviction of a man who had been bugged by the FBI when he used a telephone booth for illegal betting.)

Comments

In the Mapp case, the Supreme Court ruled that the search was illegal and that the requirement that the federal government obtain warrants for such searches also applies to the states. For an analysis of searches in the schools, examine the lesson plan, "T.L.O. and School Searches," in Part Four.

To Search or Not to Search

A community near your town has been so shocked by the increased sale and possession of illegal drugs by students in the schools that the school board has passed a rule allowing principals to search student cars in school parking lots. The president of the high school's student body thinks that this violates Fourth-Amendment rights.

- After reading "To Search or Not to Search," answer these questions in an essay:

A. Do you agree with the student body president that the search violates the Fourth Amendment? Why or why not?

B. Students are likely to protest if the principal conducts the searches. The school board will question the principal's decision if she decides not to search the cars. What should she do and why?

Additional Activities

Involve students in the difficult balancing of the right to privacy and the need of law enforcement officials to obtain evidence of crimes. Call upon groups of students to debate the ability of police to search private homes. Encourage their discussion of the limits of police power and the extent to which private citizens should be free to do as they please in their own homes.

How far should freedom from search and seizure extend in non-criminal settings? Explore the issue with your students in the case of a person subjected to drug testing in the public sector. The

class views the issue from the Supreme Court's perspective in a lesson found in the article, "Supreme Court Docket: Drug Testing and the Fourth Amendment," edited by Charlotte C. Anderson and Charles Williams, in *Social Education* 53 (April-May 1989) p. 229-32, 50 (EJ 391 389).

Results/Benefits

Students see that both the individual and the government have legitimate interests with respect to searches. In some cases the individual's right to privacy may prevail, while the state's interest may predominate in other situations.

Additional Resource

Levin, Sandy. "Teaching Criminal Law." *History and Social Science Teacher* 24 (Winter 1989) p. 66-69.

The Rights of Criminal Suspects

TERRY and the "Stop and Frisk" Principle

Source

ED 255 451

Law: The Language of Liberty. Supplemental Materials for Alabama Social Studies Teachers. Grade 12. Montgomery, AL: Alabama Administrative Office of Courts (1981) 140 pp.

Brief Description

Through a study of *Terry v. Ohio*, the case that gave rise to the "stop and frisk" principle, students learn about the police power to detain criminal suspects in certain circumstances.

Objective

To learn about one of the rules prescribing police treatment of suspects when investigating crimes.

Procedures

- Read the Fourth Amendment (see Appendix A).
- Read and study the following summary of the case of *Terry v. Ohio*.

Terry v. Ohio **(1968)**

A Cleveland detective named McFadden observed two men, Terry and Chilton, walking back and forth along an identical path and stopping to stare inside the same store window. They did this no fewer than two dozen times. Detective McFadden suspected the pair of "casing" the store for a possible armed robbery. McFadden approached the pair, identified himself as a police officer, and asked their names. The men mumbled an obscene remark, at which point McFadden spun Terry around and "patted down" his outer clothing. Then the detective located a pistol in Terry's outside coat pocket, but he was not able to remove it. He then ordered both men inside the store where he "patted down" the other man and found a pistol on him also. The men were taken to the police station and were charged with carrying concealed weapons. The attorney for Terry said the weapon was unlawfully obtained evidence.

- Answer the following questions.

A. Do you think the detective had the right to stop the men? To frisk them? Would it make any difference if the men had each walked by the store three times? Once?

Comments

Discuss with your students how far the *Terry* rationale should go. Should it allow strip searches of persons placed under arrest? People not yet arrested? What is a "reasonable" search under *Terry* and under the Fourth Amendment?

B. List the factors that might have indicated to the detective that there was "reason to suspect an unlawful plan." List the factors that may have led the detective to believe that his suspicion of criminal intent and possible danger was reasonable.

C. What is the remedy when an individual feels that he or she has been unlawfully stopped and harassed by the police? Do you think only individuals with something to hide would refuse to allow the police to stop them, frisk them, or search their belongings? Does that make any difference?

D. Are there any differences between "stop and frisk" and "search and seizure"? If so, what are the differences?

- The Terry case went all the way to the U.S. Supreme Court. Read the summary of what the Court decided.

The Court reviewed the meaning of "unreasonable search and seizure" as it related to the Fourth Amendment. The justices held that: (1) if a police officer observes unusual conduct that leads to the conclusion, in light of the officer's experience, that the persons being confronted may be armed and dangerous; and (2) if in the course of investigating this behavior the officer identifies himself or herself, and makes reasonable inquiries; then that officer is entitled to protect himself or herself and others in the area by conducting a carefully limited weapons search of the suspect's outer clothing. According to the Supreme Court, a judge must find that any weapons were seized in a "reasonable" search as described above. If the search is reasonable, any weapons seized may be used as evidence against the person from whom they were taken.

Results/Benefits

Students see the difficulty of balancing the right of individuals to be free from unreasonable searches against the need of police to protect themselves and the public from people who may be dangerous.

The Rights of Criminal Suspects

Informing Suspects of Their Rights: MIRANDA v. ARIZONA

Brief Description

Students read and answer questions about *Miranda v. Arizona*, the decision requiring that criminal suspects be advised of their constitutional rights upon arrest.

Objective:

To see that suspects, when placed under arrest, are entitled to be told what their rights are. To understand more generally that in the area of the Fifth Amendment, as in other parts of constitutional law, the interpretation of what the Constitution means evolves over time.

Procedures

- Read the Fifth Amendment to the U.S. Constitution (see Appendix A).
- Read the following case summary:

Miranda v. Arizona **(1966)**

During the 1960s the U.S. Supreme Court, under Chief Justice Earl Warren, handed down a series of decisions that greatly strengthened the rights of accused persons. One of the most important and controversial decisions involved Ernesto Miranda of Arizona and the meaning of the Fifth Amendment.

In 1963 Miranda was arrested for kidnapping and attacking a young woman near Phoenix. The woman identified Miranda at the police station, and the police questioned the suspect for two hours. No one told Miranda that he had the right to refuse to answer questions or to see a lawyer. Miranda confessed, and was tried and convicted on the basis of his confession.

Miranda appealed his conviction to the U.S. Supreme Court. His lawyer claimed that the police violated Miranda's Fifth Amendment protection against self-incrimination. Attorneys for the state of Arizona argued that Miranda could have asked for a lawyer at any time during his interrogation by police, but that he

Source

ED 258 891

Patrick, John J.; Remy, Richard C. "Lessons on the Constitution: Supplements to High School Courses in American History, Government and Civics." Washington, D.C.: Project '87 of the American Historical Association and the American Political Science Association; distributed by Boulder, Colorado: Social Science Education Consortium (1985) 310 pp.

Comments

Anyone who has watched television or movies since the mid-1960s has seen arrested suspects being advised of their rights. Ask your students whether advising a person of his or her rights is still meaningful, or whether it is just a matter of form without any significance for suspects or police. Suggest that your students watch a police show on TV. Ask them to notice whether the arresting officers "Mirandize" suspects. Ask them to notice especially whether the authorities "Mirandize" young suspects.

had not done so. They also said that no one had forced him to confess, and because the confession was voluntary, it could be used against him in court.

In a 5-4 decision, the Court struck down Miranda's conviction. The Court ruled that the Fifth Amendment requires police to inform suspects who are in their custody of the right to remain silent, that anything said by suspects in custody can be held against them, and that they have the right to a lawyer. Police must give these warnings, the Court said, before any questioning of a suspect can take place. A defendant may then voluntarily waive these rights.

The Court added that if a suspect wants to remain silent or contact a lawyer, police interrogation must stop until the suspect is ready to talk, or until a lawyer is present. Confessions obtained in violation of this rule cannot be used by prosecutors in court.

The *Miranda* decision was controversial. Many law enforcement officials complained that the decision "handcuffed the police" by putting requirements on them that blocked the performance of their duty. In a strongly worded dissent, Justice John Harlan argued: "It's obviously going to mean the disappearance of confessions as a legitimate tool of law enforcement." Chief Justice Warren, a former prosecutor, was joined by others in defending the ruling. They argued that the American system of justice is based on the idea that an individual is innocent until proven guilty. The government, they claimed, must produce evidence against an accused person, and cannot resort to forcing suspects to produce evidence against themselves.

After the *Miranda* decision most police began carrying cards from which they read suspects their rights. The cards quickly became known as "Miranda cards."

- Write your answers to the following questions based upon the *Miranda* decision:

A. Read the Fifth Amendment. Which part of it did Miranda accuse the police of violating?

B. What was the basis of Justice Harlan's argument in dissent?

C. According to the *Miranda* decision, police must inform suspects of which of the following rights before questioning them?

1. The right to remain silent.
2. The right to make one phone call.
3. The right to have a lawyer present.

4. The right to reasonable bail.

D. Which of the following statements about the effects of this decision are correct? Explain your choices.

1. *Miranda* expanded the rights of people accused of crimes.

2. *Miranda* increased the Court's power over the executive branch.

3. *Miranda* reduced the reliance of police on confessions to convict people.

E. If the Fifth Amendment protection against self-incrimination did not exist, what dangers might threaten the fair functioning of the legal system?

Results/Benefits

Through a study of the Fifth Amendment and one of the most important decisions interpreting it, students have gained insight into the dangers of self-incrimination and some of the rights of the arrested criminal suspect.

Additional Resource

Levin, Sandy. "Teaching Criminal Law." *History and Social Science Teacher* 24 (Winter 1989) p. 66-69.

Comments

Advise your students that minors must also be given the Miranda warnings when they are taken into police custody. Minors are not free to waive these rights without parental consent. If a minor were to make a written confession, the statement might not be admissible in court against the minor if the parent did not consent beforehand to the making of the statement. This is yet another example of the differences between the rights of adults and of minors.

The Rights of Criminal Suspects

Cruel and Unusual Punishment?

Source

ED 302 448

Townsend, Kenneth; Webb, Patrick, "Youth and the Law, #4012. Ninth Grade. Elective Semester." Charlotte, NC: Charlotte-Mecklenburg Public Schools (1983) p. (9)8.

Brief Description

Students consider the meaning of the Eighth Amendment's ban on cruel and unusual punishment in the contexts of capital punishment and habitual offender sentencing.

Objective

To acquaint students with an often-contested question of criminal law: What constitutes cruel and unusual punishment?

Procedures

- Read the Eighth Amendment (see Appendix A).
- Consider the following hypothetical cases.

(1) Smith is arrested and charged with the murder of her neighbor, Jones. The killing occurred while Smith was committing another felony, burglary. Committing murder in the course of another felony made her eligible for the death penalty under the laws of the state where the crime occurred. When the case goes to trial, Smith is convicted and sentenced to death. On appeal, her lawyer argues that the death penalty in any case is cruel and unusual punishment.

(2) Roberts is charged with armed robbery. If he is convicted, it will be the third time. His state provides a longer-than-usual prison term for "three-time losers." After his conviction and sentencing as a "habitual offender," Roberts' lawyer appeals. The argument is that the sentence amounts both to double jeopardy in violation of the Sixth Amendment (in that he has been sentenced twice for the same incident) and to cruel and unusual punishment in violation of the Eighth Amendment.

- Write answers to the questions below.

A. Do you think the death penalty as ordered in case #1 amounts to cruel and unusual punishment? Why or why not?

B. Is the habitual-offender law described in case #2 an Eighth Amendment violation? Why or why not?

C. When do you think a criminal punishment is severe enough to violate the Eighth Amendment?

- Discuss your opinions with the class.
- Read the following summary of the U.S. Supreme Court's views on cruel and unusual punishment.

The Supreme Court has refused to strike down the death penalty itself on Eighth-Amendment grounds, as long as the punishment is applied equally (for instance, in a way that treats all races equally) and as long as the punishment is not more severe than the crime (making sure, for example, that a trial judge does not sentence someone to five years of hard labor for jaywalking).

The justices have also upheld habitual offender statutes. Members of the Court apparently believe that the added punishment under such laws is not excessive because the person's behavior in committing three separate felonies (rather than just one) justifies stiffer punishment. Nor does the Court find double jeopardy in violation of the Sixth Amendment. The person is not being penalized again for his first and second felonies, but is being given an extended prison term for committing the act of accumulating three felony convictions.

Additional Activities

The U.S. Supreme Court reviews new cases on the death penalty on a regular basis. Encourage students to look for newspaper and magazine stories on the subject. Assign each student to write a fictional newspaper story about a death penalty case. The writer's opinion of the death penalty should determine how the story is resolved (i.e., execution, clemency, etc.)

Results/Benefits

Students have grappled with some of the difficult issues of criminal punishment: How much is too much? When does a death sentence violate the Constitution?

Comments

Obtain copies of your state's habitual-offender laws to show your students. Many states have separate habitual-offender laws for multiple drug, felony, and traffic offenders. A local prosecutor or defense attorney may be available to discuss the state's habitual-offender statutes.

Point out to your students that what may be considered cruel and unusual punishment for adults may be legal punishment for minors. For instance, the beating of a convicted adult criminal is clearly illegal; however, courts have upheld the paddling of students for violations of relatively trivial school rules. Invite student discussion of why this is so, and whether it is proper.

Deciding Whether to Prosecute

Source

ED 250 263

Howard, Estelle, "To Prosecute or Not? Enforcement of Federal Criminal Statutes (Teacher's Lesson Plan)." Los Angeles: Constitutional Rights Foundation (1982) p. 1-3, 9-10.

Brief Description

Presents reading, questioning and writing activities that prompt analysis of the considerations that a prosecutor weighs in deciding whether or not a crime has been committed, who is to be charged, what the charge will be, and how to proceed with the case.

Objective

To become familiar with the duties and powers of the prosecutor, one of the key actors within the American criminal justice system.

Procedures

- In class, discuss the crime of bribery. (See question C below.) Read the following hypothetical case, and write answers to the questions:

A park ranger is about to ticket an automobile parked for several hours in a no-parking fire lane. The owner approaches, apologizes, and offers to move the car and to give the ranger five dollars not to write the ticket.

A. Would you say that the car owner has offered a bribe to the park ranger? If you were a prosecutor, would you treat this as a criminal offense, even though only five dollars is involved? Why? Why not?

B. Do you think the county's prosecuting attorney (called the "district attorney" in some states) should be concerned with a case of this kind? Why? Why not?

C. Bribery involves offering something of value to a public official to get that official to do something in violation of his or her lawful duty. Both offering and accepting things of value in this way are criminal offenses. Is it bribery for an attorney to offer bottles of her favorite wine to her friend, the local judge? If this is legal, is it a good idea?

D. A prosecutor generally has discretion to decide whether to pursue criminal charges against a suspect. Suppose two people are arrested for passing counterfeit money. Do you think it would be in the public interest to offer the suspects

immunity if they would give information on who made and supplied them with the phony cash? Is it more important to try to prosecute those who are printing the money or those who are passing it? Give reasons for your answers. What if the offer is made to one of the two suspects, to get her to testify against her colleague?

Results/Benefits

Students appreciate that prosecution is a difficult job of balancing the offense charged, the public interest, and sometimes, the possibility of pursuing charges against additional suspects. The class has been exposed to the idea that the prosecutor has broad discretion in deciding whether to bring charges against a particular person.

Comments

To give students a more realistic look at the prosecutor's role, invite the local prosecutor to address your class. You may also arrange to take your class for a visit to the courthouse and attend a criminal trial.

The prosecutor has broad discretion to make decisions on cases against adults and minors alike. In practice, a prosecutor may actually have less discretion over a case involving a juvenile, because of additional procedural protections that some states have in place in their juvenile justice systems. Additional hearings may be required, and minors' parents are entitled to be present at many stages of the proceedings. Ask a prosecutor to contrast the procedures involved in bringing charges against an adult with the processes involved in juvenile delinquency cases.

GIDEON and the Right to Assistance of Counsel

Source

ED 308 119

Chibucos, Pamela E. "Perspectives: Readings on Contemporary American Government" (Teacher's Guide). Arlington, VA: Close Up Foundation (1987) p. 21-22.

Brief Description

Through a study of the Sixth Amendment and the landmark case of *Gideon v. Wainwright*, students learn about the right of a criminal defendant to be represented by an attorney.

Objective

To lead students to the realization that the right of impoverished criminal defendants to have counsel appointed to represent them is a fairly recent development, despite the late-eighteenth-century origins of the Sixth Amendment.

Procedures

- Read the Sixth Amendment (see Appendix A).
- Read the following case summary.

Gideon v. Wainwright **(U.S. 1961)**

At age 51, Clarence Gideon was a drifter and small-time gambler who had four times been convicted of crimes. While Gideon was living in Panama City, Florida, a local poolroom was burglarized. The jukebox and cigarette machine coin boxes were emptied, and some beer and wine were taken. The poolroom had been entered through a broken window. Gideon lived across the street in a shabby hotel. Acting on a tip from a man who had recently had an argument with Gideon, police arrested Gideon and charged him with breaking and entering.

Gideon did not have a lawyer, and had no money with which to hire one. He asked the judge to appoint a lawyer to defend him. The judge, however, ruled that because it was not a case carrying the possibility of a death sentence, Florida law did not require him to appoint defense counsel for Gideon.

Gideon conducted his own defense without a lawyer. He questioned the person with whom he had argued, but failed to ask why the man had been out all night or what his motivations might

have been for naming Gideon in the break-in. Gideon did not ask about the witness's reputation, which was not very good.

Gideon also questioned the other prosecution witness, and then presented eight defense witnesses. However, Gideon's questioning of these witnesses was not according to any particular strategy and it did little to strengthen his defense. Throughout the trial, Gideon simply stressed his own innocence. The judge found Gideon guilty, and he sentenced him to five years in the state prison.

After state courts refused to review his sentence, Gideon wrote a petition to the U.S. Supreme Court. He felt that his conviction violated the due process clause of the Fourteenth Amendment because he had not been represented by a lawyer. The Court agreed to review the case.

- Write out your answers to these questions:

A. What important principles are raised by this case?

B. If you had to defend yourself in court today, what problems might you have?

C. How would you decide *Gideon v. Wainwright*, and why?

D. Do you believe Gideon's first trial was fair? Why or why not?

E. Should a person's wealth have any influence on the fairness of the trial that he or she receives? Do you think wealth does have an impact?

F. Do you think poor people today receive the same quality of defense that a wealthy person does? Why or why not?

- Discuss your answers in class.

Additional Activities

For an excellent dramatization of the *Gideon* case, show your students the television movie, *Gideon's Trumpet,* starring Henry Fonda. The videotape may be available from your local library.

Results/Benefits

Your class now understands that the right to appointed counsel is not something that sprang up naturally with passage of the Sixth Amendment, but it is, rather, a right that was recognized nearly 200 years later. In thinking and writing about the right of a poor person to be represented by a lawyer in a criminal trial, students consider the relationship that may sometimes exist between affluence and access to full legal protection.

Comments

A local public defender may be willing to discuss with the class the problem of legal representation for poor criminal defendants. Encourage your students to ask questions about the relationship between wealth and legal assistance, and about the often massive caseload that these attorneys handle.

Obtain a tape of the movie "Gideon's Trumpet," starring Henry Fonda, from your school library. Your class will enjoy and learn a great deal from this excellent television portrayal of the events of the *Gideon* case.

Indigent minors, like their adult counterparts, are entitled to appointed counsel in criminal cases. Ask your students to imagine that they are being charged with a serious crime. Now that they have studied the work of public defenders, do they think they would rather be represented by a public defender or a private attorney?

Additional Resource

Bodenhamer, David. "Trial Rights of the Accused." *Bill of Rights, Magazine of History: For Junior and Senior High School Teachers* vol. V, n. 1 (Summer 1990), p. 13-19. Organization of American Historians. A courtroom simulation accompanies the lesson.

The Rights of Criminal Suspects

Selecting a Jury for a Criminal Trial

Source

ED 301 530

Gallagher, Arlene F., ed. "Teaching Our Tomorrows: Programs In Citizenship Education." Winston-Salem, NC: Center for Research and Development in Law-Related Education and Wake Forest University School of Law (1987) 174 pp.

Brief Description

This lesson familiarizes students with the jury-selection process by allowing them to prepare and play roles in a hypothetical case.

Objective:

To learn about trial by jury: its historical development, its contemporary status, and how it operates.

Procedures

- Read and discuss the Sixth Amendment (Appendix A) and the historical development of the jury and of "voir dire," the process of selecting a jury for a trial.
- Choose volunteers for the following roles: one judge; two or three lawyers per side, and six to 12 potential jurors. Everyone else will observe the exercise.
- Read the following case:

Facts

Louis Goldberg and Angelo Lombardo have been indicted for a violation of New Jersey's gambling laws. Their store, "Ange and Lou's Confectionery," was raided by the police on the basis of a search warrant issued by a superior court judge. Facts supporting the search warrant came from undercover investigations by the police. This is the second time that the defendants have been arrested on a similar charge. The previous arrest resulted in a verdict of guilty.

Law

New Jersey Statute 2A: 112-2: "Any person who has or keeps in his place of business, or other premises, any slot machine...is guilty of a misdemeanor."

- The defendants and each of the potential jurors is provided with information on the backgrounds of the person he or she is playing: age, sex, ethnic background, occupation, previous jury experience, views on gambling. The potential

jurors should try to assume as much of their role's characteristics as possible.

Background of the Accused:

	Goldberg	Lombardo
Age:	53	46
Birthplace:	Newark, N.J.	Naples, Italy
Schooling:	11th Grade	High School
Marital Status:	Divorced	Married
Children:	3	4
Prior Record:	1 arrest, 1 conviction	3 arrests, 1 conviction

- Each team of lawyers discusses its questioning strategies in hope of seating a "favorable" jury. The lawyers should consider what kind of person might be most likely to convict the defendants or find them not guilty. For instance, it would be reasonable to think that a potential juror with a record of several criminal convictions would be more likely to vote to acquit the defendants. On the other hand, a police officer on the jury might be expected to side with the authorities against the suspects. Defense attorneys might believe that a college-educated juror would hold a low opinion of the defendants, who only attended high school. These and other possibilities should be taken into account when questioning people to serve on the jury.

A side can challenge any juror "for cause," giving a reason not to seat the person on the jury. "For cause" can refer to relationship with one of the parties, knowledge of the case, record as a convicted gambler, etc. The lawyers get this information from the questions they ask the would-be jurors. Each side can also strike two or three people from the jury with "peremptory" challenges, for which no reason has to be given.

The judge needs to understand the challenge procedures and know how to react to challenges. The person playing the judge must keep track of how many for-cause and peremptory challenges each side has made, and must be ready to reject for-cause challenges offered for an improper reason. For example, it is illegal to remove a potential juror because of her ethnic background.

- Set up the room to resemble a courtroom. Provide name cards for each character. The prosecutor begins questioning potential juror #1, followed by defense questions and any challenges to that juror. The judge (who may also question the jury) rules on any challenges. The defense begins the questioning of the next juror, and the parties switch sides with each new juror. The judge is to allow any unused

peremptory challenges only after all jurors are questioned. The lawyers can use questions such as these:

A. What kind of work do you do?

B. Have you ever served on a jury?

C. Do you have any prior information or opinion about this case?

D. Would you tend to place greater emphasis on the testimony of a police officer, as opposed to an ordinary citizen?

E. Have you ever been to Atlantic City? Often?

- Once a jury is picked, talk about the process. Reflect on the various roles and strategies, and give your feelings about the jury system.

Results/Benefits

Students learn about the complex process of jury selection through direct participation. This lesson makes the Sixth Amendment right to trial by jury come to life for students.

The Rights of Criminal Suspects

"Ladies and gentlemen of the jury..."

Source

ED 255 451

"Law: The Language of Liberty. Supplemental Materials for Alabama Social Studies Teachers (Grade 12)." Montgomery, AL: Alabama Administrative Office of Courts (1981) 140 pp.

Brief Description

Students enact a criminal jury trial, using a hypothetical case.

Objective

To experience the workings of the criminal jury-trial system through role-playing.

Procedures

- For the mock trial, the teacher selects students to fill the following roles: judge; prosecuting attorney; defense attorney; crime victim Jerry Burkhart; State Trooper Marty Cannon; Police Officer Terry Tabor; defendant Jake Stanwick; Stanwick's girlfriend, Sandra Stratton; Stanwick's grandmother, Mrs. Eloise Stanwick; and the defendant's uncle, Tommy Stanwick. The rest of the class acts as the jury.

- Read the following case summary. In the case, Jake Stanwick is charged with burglary. Before testifying, each person playing a role must be familiar with his or her part in the case.

Jerry Burkhart, a car salesman, came to his home at 3905 Dove Avenue, at 6:15 p.m. on December 18. A light at the end of the street was bright enough for Burkhart to see an unfamiliar automobile parked in front of his house. Being a car salesperson, he quickly recognized the make and model of the car. He made a mental note of the license number and the color of the automobile (a blue 1974 Buick, license number BFR 955).

As he approached his front door and opened the storm door, Burkhart noticed that the inner door was unlocked although he had locked it when he left for work that morning. As Burkhart entered his home, he saw a man walking toward him from the hallway with several guns and Christmas packages. Burkhart yelled, "What are you doing in my house?" The man dropped the items and ran out the back door, jumped into the Buick and drove away.

Burkhart later discovered that the patio doors leading to the back yard of his house had been broken, apparently with a fire log from a stack located outside the back door. No items were discovered to be missing, so Burkhart assumed that he had foiled the burglary scheme.

Police officer Terry Tabor investigated the burglary, took statements from Burkhart, and made a report.

At approximately 10 p.m. the same evening, State Trooper Marty Cannon investigated an accident involving a blue 1974 Buick, license number BFR 955. Jake Stanwick was driving the car. Later that evening, Stanwick was arrested and charged in the Burkhart burglary.

- The teacher will give strategy plans to the defense and prosecution, and may help them prepare questions.

Prosecution Strategy

If the defendant takes the witness stand (he does not have to), the prosecutor can question him about his three past burglary convictions in other counties. This can be done to try to impeach his credibility (in other words, to try to show that he is not believable) and to give the jury the idea that he has a bad moral character. If the defendant does not testify, but offers character witnesses, the prosecutor can ask those witnesses if they know about his moral character and prior convictions. The defense has to raise the issue of the defendant's character first. If the defense does not offer witness testimony or other evidence that is intended to show that Stanwick is a person of good character, the prosecution cannot raise the issue.

The prosecutor can call Burkhart, Trooper Cannon, and Officer Tabor as witnesses.

Defense Strategy

The defendant does not have to testify, and the state knows about his three prior burglary convictions in other counties. Therefore his lawyer must decide whether it will strengthen or weaken the case for Stanwick to testify. As its witnesses, the defense can call the defendant, as well as Sandra Stratton and Tommy and Eloise Stanwick. They are all willing to testify that the defendant was with Sandra and Eloise that evening, visiting Tommy in Hardville, a town in another county.

- Both lawyers may make opening statements, call and question witnesses, and make closing arguments. After one side questions a witness, the other side may, but does not have to, cross-examine the witness.

Comments

You may wish to invite a criminal defense attorney or local judge to be the judge of this classroom court case.

Let your students know that minors accused of criminal offenses are entitled to jury trials. You can use the facts provided for a trial of juvenile offenders.

- At the end of the trial, the jury deliberates on a verdict. The teacher will put a time limit on the deliberations.

Results/Benefits

Students get a first-hand look at the workings of the criminal trial. They see how witnesses testify and that there can be both witnesses to facts and witnesses to character.

The Rights of Criminal Suspects

Free Press versus Fair Trial

Source

ED 229 322

Jackson, Edwin L., *Improving Citizenship Education: Secondary Handbook*, Atlanta: Fulton County Schools, 1981, 613 pp.

Brief Description

Students participate in role-playing and writing activities that highlight the potential conflict between free press and fair trial rights.

Objective

To comprehend that constitutional rights, such as free press and fair trial rights, can clash with one another. To see that the resolution of these conflicts is not a simple matter, even for experienced lawyers and judges.

Procedures

- After reading and discussing the First, Sixth, and Fourteenth Amendments (see Appendix A), read the following case summary.

Maxwell (U.S. 1966)

On July 4, 1954 Dr. Sam Sheppard reported to police that his pregnant wife had been beaten to death in the upstairs bedroom of their home. Sheppard, a prominent Cleveland doctor, told police that he had been dozing in front of the TV downstairs when he heard a cry. He ran upstairs and saw a "form" next to his wife's bed. As he struggled with this form, he was struck on the back of the neck and knocked unconscious. When he recovered, he discovered that his wife was dead.

Although the coroner did not believe his story, Sheppard was not accused of any crime for weeks. Family and friends had placed the doctor in a clinic run by his family so that his injuries could be treated. Meanwhile, editorials began appearing in the local newspapers charging a coverup and stating that "somebody was getting away with murder." An inquest was held in a school gymnasium packed with reporters, TV crews, and photographers. Sheppard was questioned in full view of hundreds of people, after which the coroner announced to the audience that he could, but would not, order Sheppard held for the grand jury.

Comments

Juvenile delinquency hearings—in most, if not all, states—are held behind closed doors. The theory behind this approach is apparently that minors accused of criminal offenses should be accorded special protection from public and press scrutiny. This notion suggests that a person is not fully accountable for his or her actions until he or she reaches the age of eighteen. Discuss the practice of holding juvenile hearings, but not adult trials, behind closed doors. Ask your students if they agree that minors should be treated differently in this situation.

Throughout the next week numerous local newspaper stories were published that implied that Sheppard was the real suspect, that he had been involved with other women, and that police were stalling because of Sheppard's local prominence. The same day that a front-page editorial demanded, "Quit Stalling—Bring Him In," police arrested Sam Sheppard. On August 17th he was indicted for murder, and his case came to trial on October 18th, just two weeks before both the judge and prosecutor were up for reelection.

A list of prospective jurors was published in the newspapers, and all of those named received anonymous letters and phone calls. Though cameras were barred from the trial itself, cameras flashed and TV crews moved in to film the trial participants during recesses. Every juror except one later testified to reading opinions about the case in local papers, and most of them saw and heard broadcast commentaries relating to the case.

The judge refused to grant the defense attorney's request to move or delay the trial. He said that he could not control news coverage of the case or continually harass the jury about listening to trial commentaries.

Sheppard was convicted of murder and sentenced to life in prison. After ten years of appeals, the case was finally heard by the Supreme Court. Sheppard's attorney argued that because his client was denied a fair trial through the judge's failure to protect him from massive prejudicial publicity, Sheppard's conviction should be overturned.

- Write what you think should be done in this case.
- **Be a Supreme Court Justice.** Nine members of the class sit in a circle of chairs set in the front of the classroom. These students, acting as the Supreme Court, discuss their opinions of the case.
- Read the following summary of the Sheppard decision.

The Supreme Court found that Sheppard was denied a fair trial because of the sensationalized news coverage of the trial. However, the justices faulted the trial judge, not the reporters, for failing to insure Sheppard a fair trial. A new trial was ordered, and Sheppard was acquitted.

Additional Activities

During your class's study of First Amendment issues (particularly in the context of this and the following lesson), display the "American Viewpoint" video series. It consists of sixty-second commentaries on the First Amendment, featuring veteran

television journalist Jim Hartz. The tape is available from the Public Affairs Department of American TV and Communication, 300 1st Stanford Place, Stanford, CT 06902 (phone (203) 328-0620).

Results/Benefits

Students should now have a greater understanding of the friction that may arise when the rights of a criminal defendant are set in contrast to the right of the press to report on trials.

Additional Resources

ED 299 565

Creech, Kenneth, *The Free Press/Fair Trial Debate: Balancing First and Sixth Amendment Rights 1951-1986.* Paper presented at the Annual Meeting of the Speech Communication Association (74th, New Orleans, LA, November 3-6, 1988), 10-15.

ED 293 175

Carter, T. Barton. *The First Amendment and the Fourth Estate: The Law of Mass Media* (4th ed.), Westbury, NY: Foundation Press, 1988, 806 pp.

Government Power and Press Rights

Sources

ED 261 929

Eveslage, Thomas, "The First Amendment: Free Speech and a Free Press. A Curriculum Guide for High School Teachers." Iowa City, IA: The University of Iowa (1985) 76 pp.

ED 293 175

Carter, T. Barton. *The First Amendment and the Fourth Estate: The Law of Mass Media* (4th ed.), Westbury, NY: Foundation Press, 1988, 806 pp.

Comment

Invite a local reporter or editor to speak to the class about the existence of shield laws in your state. Instruct your students to prepare questions about the law and the use of confidential sources by the news media.

Brief Description

Students consider the conflict that may arise between the authority of law enforcement and court officials and the right of news media representatives to report on current events. Members of the press regard themselves as representatives of the public's right to know about things.

Objective

To realize that constitutional rights do not exist in a vacuum, and that they can come into direct confrontation with the powers of the government.

Procedures

- Read the following summary of cases dealing with the news media.

In some cases, the police may be in a position to enter newspaper offices legally to search reporters' files. In one case, law enforcement officers did just that. Believing that a college newspaper photographer had taken pictures of a group of campus protesters—although the paper was not accused of having done anything wrong—police obtained a warrant and searched the paper's files for the photos. In the 1978 case of *Zurcher v. Stanford Daily*, the Supreme Court upheld the action. The justices ruled that as long as the government had enough evidence to support the belief that the newspaper offices contained the evidence sought, a search warrant could be obtained.

Newspaper reporters often try to "protect their sources" by refusing to reveal the names of people who give them information. The idea of this practice is to keep open the possibility that the same sources will provide information in the future, and/or to make others feel confident that they too can provide information to reporters without their identities becoming known. In *Branzburg v. Hayes* (1972), the Supreme Court considered these arguments but ruled that in a criminal case, the government is entitled to the testimony of a reporter, even if that reporter promised to keep the identities of news sources secret.

Despite the result in the Branzburg case, many states offer legal protection to news sources with what are known as "shield laws." While not protecting the news media from all pressure to reveal sources, shield laws discourage law enforcement agencies and prosecutors from forcing journalists to answer sweeping questions about who said what to them. The laws generally keep sources confidential unless the journalist has specific, essential information about a serious offense that cannot be obtained in any other way.

Whether a state has a shield law or not, a reporter may occasionally be held in contempt of court for refusing to obey a judge's order to reveal a source of information. In this situation, the judge may order the reporter to be put in jail until the identity of the person who supplied the information is revealed.

- Write answers to the following questions based on the reading.

A. A reporter with your local newspaper has written a story based on an interview with someone who is continuing to sell heroin to high school students. The reporter is called before a grand jury and ordered to reveal her source. She tells the court that she promised to keep her source confidential. Debate both sides of this ethical and legal question.

Note: This assignment could also be carried out as a group activity, with students representing both sides of the question in an informal debate.

B. If you were the judge in the case described in question A, would you order the journalist to reveal her source? Why or why not?

C. In the *Zurcher* case, the Supreme Court sided with the police. Do you think this was a good decision? Why or why not? What will the decision in this case mean to the news business and the right to privacy?

D. What effect do you think the *Branzburg* and *Zurcher* decisions will have on the right *not* to have to answer questions?

Ask students to collect newspaper stories about, and listen to radio and TV coverage of, a recent trial in your area or a trial that has received extensive national news coverage. If possible, follow the coverage during the course of the proceedings, and compare how various news media report the same events. Based on the news coverage, try to predict the outcome of the case. If the trial has ended already, discuss whether the result was predictable from the news reports that preceded it.

Comment

Members of Congress were so upset with the Supreme Court's holding in the *Zurcher* case that the lawmakers passed a law that would change the result in future cases. According to the Secrecy Act of 1980, a court could issue subpoenas (written orders for witnesses to appear or for documents to be produced), but news media offices could not be searched. Supporters of the bill were concerned that newspaper office searches would interfere with reporters' ability to gather news. Ask your students whether they agree with the Supreme Court's or the Congress' view of the case. Compare the result in the case of *Hazelwood School District v. Kuhlmeier*, a school newspaper case which appears in the chapter entitled "Free Speech inside the Schoolyard Gate" in Part Four, with this case.

Part Three: Introduction

Having reviewed basic concepts of government and law in Part One and the law as it relates to adult criminal suspects in Part Two, we now turn our attention to the law as it pertains to education. Among topics discussed are subjects close to the lives of adolescent students: the right to an education; compulsory school attendance; student punishment; and the right of students to express themselves and to have unrestricted access to information. We also examine two leading cases on the subject of racial equality in the schools: *Plessy v. Ferguson*, which has been taken to represent the old "separate but equal" doctrine of public education (although the "equal" part was a somewhat later development); and *Brown v. Board of Education*, the landmark 1954 case which established that public school systems that separated students on the basis of race were inherently unequal.

In the closing chapters of this part, we expose students to two challenging concepts of constitutional law relating to religion. Explored are two controversial parts of the First Amendment: the Establishment Clause, which bars Congress from passing laws regarding the establishment of religion; and the Free Exercise Clause, which precludes Congress from legislating to restrict citizens' ability to practice their religious beliefs. Students examine cases in which religion was at the heart of controversies that arose in public schools.

As in the other Parts of this book, it is important that you urge your students to compare decisions made by the courts in the constitutionally based cases against the text of the Constitution. Do your students think that their right to express themselves in a school newspaper is limited by school administrators' asserted need to maintain discipline? Does the state have an interest in having students attend school until the age of 16? Why not 18 or 21? Does anything in the First Amendment suggest that silent meditation should be acceptable in public school, but voluntary, oral prayer should not? Because the subject matter is close to their own lives, students are likely to be very open to discussing the topics found in this Part.

The Rights of Minors and Education Law

An Ordinance for the Government of the Territory of the United States, North-West of the River Ohio.

BE IT ORDAINED by the United States in Congress assembled, That the said territory, for the purposes of temporary government, be one district; subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

Be it ordained by the authority aforesaid, That the estates both of resident and non-resident proprietors in the said territory, dying intestate, shall descend to, and be distributed among their children, and the descendants of a deceased child in equal parts; the descendants of a deceased child or grand-child, to take the share of their deceased parent in equal parts among them: And where there shall be no children or descendants, then in equal parts to the next of kin, in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate, shall have in equal parts among them their deceased parents shares; and there shall in no case be a distinction between kindred of the whole and half blood; saving in all cases to the widow of the intestate, her third part of the real estate for life, and one third part of the personal estate; and this law relative to descents and dower, shall remain in full force until altered by the legislature of the district. ——— And until the governor and judges shall adopt laws as herein after mentioned, estates in the said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her, in whom the estate may be, (being of full age) and attested by three witnesses; — and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed, and delivered by the person being of full age, in whom the estate may be, and attested by two witnesses, provided such wills be duly proved, and such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrates, courts, and registers shall be appointed for that purpose; and personal property may be transferred by delivery, saving, however, to the French and Canadian inhabitants, and other settlers of the Kaskaskies, Saint Vincent's, and the neighbouring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them, relative to the descent and conveyance of property.

Be it ordained by the authority aforesaid, That there shall be appointed from time to time, by Congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress; he shall reside in the district, and have a freehold estate therein, in one thousand acres of land, while in the exercise of his office.

There shall be appointed from time to time, by Congress, a secretary, whose commission shall continue in force for four years, unless sooner revoked, he shall reside in the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of his office; it shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department; and transmit authentic copies of such acts and proceedings, every six months, to the Secretary of Congress: There shall also be appointed a court to consist of three judges, any two of whom to form a court, who shall have a common law jurisdiction, and reside in the district, and have each therein a freehold estate in five hundred acres of land, while in the exercise of their offices; and their commissions shall continue in force during good behaviour.

The governor and judges, or a majority of them, shall adopt and publish in the district, such laws of the original states, criminal and civil, as may be necessary, and best suited to the circumstances of the district, and report them to Congress, from time to time, which laws shall be in force in the district until the organization of the general assembly therein, unless disapproved of by Congress; but afterwards the legislature shall have authority to alter them as they shall think fit.

The governor for the time being, shall be commander in chief of the militia, appoint and commission all officers in the same, below the rank of general officers; all general officers shall be appointed and commissioned by Congress.

Previous to the organization of the general assembly, the governor shall appoint such magistrates and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order in the same: After the general assembly shall be organized, the powers and duties of magistrates and other civil officers shall be regulated and defined by the said assembly; but all magistrates and other civil officers, not herein otherwise directed, shall, during the continuance of this temporary government, be appointed by the governor.

For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof——and he shall proceed from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished, into counties and townships, subject, however, to such alterations as may thereafter be made by the legislature.

So soon as there shall be five thousand free male inhabitants, of full age, in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect representatives from their counties or townships, to represent them in the general assembly: provided that for every five hundred free male inhabitants there shall be one representative, and so on progressively with the number of free male inhabitants, shall the right of representation increase, until the number of representatives shall amount to twenty-five, after which the number and proportion of representatives shall be regulated by the legislature: provided that no person be eligible or qualified to act as a representative, unless he shall have been a citizen of one of the United States three years and be a resident in the district, or unless he shall have resided in the district three years; and in either case shall likewise hold in his own right, in fee simple, two hundred acres of land within the same:——Provided also, that a freehold in fifty acres of land in the district, having been a citizen of one of the states, and being resident in the district, or the like freehold and two years residence in the district shall be necessary to qualify a man as an elector of a representative.

The representatives thus elected, shall serve for the term of two years, and in case of the death of a representative, or removal from office, the governor shall issue a writ to the county or township for which he was a member, to elect another in his stead, to serve for the residue of the term.

The general assembly, or legislature, shall consist of the governor, legislative council, and a house of representatives. The legislative council shall consist of five members, to continue in office five years, unless sooner removed by Congress, any three of whom to be a quorum, and the members of the council shall be nominated and appointed in the following manner, to wit: As soon as representatives shall be elected, the governor shall appoint a time and place for them to meet together, and, when met, they shall nominate ten persons, residents in the district, and each possessed of a freehold in five hundred acres of land, and return their names to Congress; five of whom Congress shall appoint and commission to serve as members of the council five years, unless sooner removed. And whenever any of the said five shall happen in the council, by death or removal from office, the house of representatives shall nominate two persons, qualified as aforesaid, for each vacancy, and return their names to Congress; one of whom Congress shall appoint and commission for the residue of the term; and every five years, four months at least before the expiration of the time of service of the members of council, the said house shall nominate ten persons, qualified as aforesaid, and return their names to Congress, five of whom Congress shall appoint and commission to serve as members of the council five years, unless sooner removed. And the governor, legislative council, and house of re-

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A Few Points of Juvenile Law. Part A: GAULT

Brief Description

Through a study of *In re Gault*, one of the leading Supreme Court cases on the subject, students learn about criminal law as it relates to juveniles.

Objective

To discover the rights extended to juveniles when they are accused of committing acts that would be criminal offenses if committed by adults.

Procedures

- Read the following case summary:

In re Gault **(U.S. 1967)**

On June 8, 1964, Gerald Gault, age 15, and another boy were arrested and taken to the county children's detention home. The boys were accused of making obscene telephone calls to a neighbor. When questioned by a probation officer, the boys admitted to making the telephone calls.

On the morning when Gerald was arrested, his parents were working and were not notified that their son was being held at the detention home. Later that evening, the parents found out from Gerald's brother that Gerald was in custody. When the parents went to the detention home, the probation officer told them why Gerald was there, and that he would have a hearing the next day.

The following day the probation officer asked the juvenile court to declare Gerald to be a juvenile delinquent and to place him in the children's detention home. At the hearing, Gerald, his mother, his brother, two probation officers, and the juvenile court judge were present. The complainant was not present. No one was sworn in at the hearing, no record was made of the proceedings, and the same was true of a later hearing.

Gerald's mother was informed of this second hearing by a short note stating its date and time. The probation officer gave the judge

Source

ED 255 398

Phi Alpha Delta Law Fraternity International, "A Resource Guide on Contemporary Legal Issues...for Use in Secondary Education." Washington (1982) 185 pp.

Comments

Here, and in other chapters that deal with the rights of minors, ask your students what—if any—constitutional rights were denied to the young person involved in the case studied, simply because that person was not yet an adult. Conversely, discuss what, if any, special treatment has been extended to the minor. In Gerald Gault's case, the state was attempting to treat juvenile and adult offenders differently. Discuss with your students how successful the state's attempt was.

a report, a copy of which was not given to Gerald or his parents, and it stated that Gerald had made the obscene telephone calls. The judge found Gerald guilty of the offense. An adult found guilty of this crime could be fined $50 or imprisoned for two months. The judge ordered Gerald to be placed in the state industrial school as a juvenile delinquent until he was 21 years old unless discharged sooner by the authorities.

- Write your answers to the following questions:

A. What constitutional rights guaranteed to adults were denied Gerald?

B. How did the denial of Gerald's constitutional rights affect his hearing?

C. What possible conflicts could arise between a law extending all constitutional rights to juveniles and a law that considers only the "child's best interest"?

D. Should juvenile offenders be treated the same as adult offenders? Should they be given the same penalties? Put in the same prisons?

- Discuss your answers in small groups.

- Read the summary of the Supreme Court's decision in Gerald's case:

In a juvenile delinquency proceeding which may result in the child's commitment to an institution, due process of law requires that the child be guaranteed the following rights that are guaranteed to an adult in a criminal proceeding: the right to be notified of the charges against him; the right to counsel; the privilege against self-incrimination; and the right to confront and cross-examine the witnesses against him.

Results/Benefits

Students are exposed to some of the important procedural aspects of juvenile justice. They realize that the Supreme Court requires certain protections as a matter of constitutional law.

Additional Resource

ED 240 008

It's the Law: Students' Rights and Responsibilities. Oklahoma City: Oklahoma Bar Association (1982).

A Few Points of Juvenile Law. Part B: WINSHIP

Brief Description

The class examines a case that set the standard for the burden of proof in juvenile delinquency cases.

Objective

To scrutinize, within the juvenile justice setting, the concepts of "burden of proof" and "reasonable doubt."

Procedures

- Read the following introductory material and case summary.

Background

To convict an adult who is charged with a crime, a jury must be convinced *beyond a reasonable doubt* that the person committed the crime. This is a stronger requirement (or "burden of proof") than is true of a civil (or non-criminal) case. In a civil case, the jury only has to be convinced of its decision by a "preponderance of the evidence," which simply means it believes that the decision that the jury reached is *more likely than not* (or better than a 50-50 chance) what really happened in the case. The "beyond a reasonable doubt" burden of proof for adult criminal trials does not mean that the jury has to be absolutely certain that the accused person committed the crime with which he is charged. "Beyond a reasonable doubt" is perhaps best expressed as "highly probable."

In the Matter of Samuel Winship **(U.S. 1970)**

Twelve-year-old Samuel Winship was accused of stealing $112 from a woman's purse. In a juvenile court hearing, after the evidence was presented, the judge ruled that it was more likely than not that Samuel had committed the offense. The judge determined that because it was a juvenile hearing and not an adult criminal trial, the case against Samuel did not have to be proved beyond a reasonable doubt. As a result, Samuel was found to be delinquent and placed in the custody of the state juvenile

Source

ED 255 398

Phi Alpha Delta Law Fraternity International, "A Resource Guide on Contemporary Legal Issues...for Use in Secondary Education." Washington (1982) 185 pp.

Comments

Ask a local juvenile court official (juvenile court judge, child advocate, etc.) to discuss the state's juvenile justice system. Some states publish guides to their juvenile justice procedures.

Discuss with your students the trial judge's attempt to treat adult and juvenile criminal suspects differently. Which approach do your students think makes more sense: the trial judge's effort to apply a "more likely than not" standard, or the Supreme Court's insistence that the burden of proof should be the same for both adult and juvenile criminal suspects? Why?

detention institution. Under state law, Samuel could be kept there until he turned 18.

- Write out answers to the following questions:

A. In a criminal case involving an adult suspect, the defendant can only be found guilty by proof beyond a reasonable doubt. Why should this standard of proof be required? Should the standard be tougher than it is? Easier?

B. Can you think of any reasons for having a lower standard of proof in juvenile cases than in criminal cases? A higher one?

C. Do you see any difference between being convicted of crime and sentenced to prison, and being judged to be a delinquent child and sent to a state juvenile home? If there is a difference, does it justify having different burdens of proof in the two kinds of cases?

- Read the following summary of the Supreme Court's decision in the Winship case.

In a juvenile proceeding in which a child is charged with an act that would be a crime if committed by an adult, the charge against the child must be proved beyond a reasonable doubt. The purpose for this standard in either a criminal trial or a juvenile delinquency hearing is to reduce the risk of mistaken convictions.

Results/Benefits

Students evaluate the burden of proof in both criminal and juvenile settings, and discover how it compares to the burden in civil cases.

Additional Resource

ED 240 008

It's the Law: Students' Rights and Responsibilities. Oklahoma City: Oklahoma Bar Association (1982).

The Rights of Minors and Education Law

Education: Is It a Right?

Brief Description

Students consider whether public education is a right, through reading and writing about the Rodriguez case.

Objective

To see that a belief that is commonly taken for granted, i.e., that public education is a right, contrasts with the Supreme Court's view of the issue.

Procedures

- Read the following case summary:

San Antonio Independent School District v. Rodriguez **(U.S. 1973)**

Public schools in Texas were funded by local property taxes and grants from the state and federal governments. To raise local money for education, each school system put a tax on private real estate owned within its district.

Some Mexican-American parents with children in the Edgewood school district of San Antonio sued school officials, claiming that this way of raising money for public schools was unconstitutional under the Equal Protection Clause. In the suit, the Edgewood district, the poorest in the San Antonio area, was compared to the Alamo Heights district, the richest district in the area. The parents who sued showed that the fund-raising method produced plenty of money for the richest district, but not nearly enough for the low-income Edgewood community.

A federal district court judge ruled that the Texas system of paying for public education meant that the Mexican-American parents of Edgewood did not get the equal protection of the laws that was guaranteed by the Fourteenth Amendment. After losing at trial, Texas school authorities appealed to the United States Supreme Court.

- Write out your answers to these questions:

A. Do you think that the Texas system of financing public education discriminates on the basis of wealth? Against

Source

ED 255 398

Phi Alpha Delta Law Fraternity, *A Resource Guide to Contemporary Legal Issues...for Use in Secondary Education.* Washington (1982) 185 pp.

Comments

Another Supreme Court case dealt with Texas' treatment of illegal alien students. In *Plyler v. Doe* (1982), the justices ruled that although education was not a right, it was more than a mere benefit for citizens and legal aliens. Thus the state's unequal treatment of alien students could not be considered reasonable unless it furthered a substantial state goal. The state law failed this test.

whom, if anybody, does it discriminate? If the tax plan means less money for Edgewood than other communities, does the plan discriminate against all families who live in the Edgewood school district, including any rich people who might live there?

B. Does the Fourteenth Amendment clause that promises all people living within a state "the equal protection of the laws" imply that there is a right to public education? If so, at what level should the right apply? Day care and kindergarten? Elementary school? High school? College?

C. Is the Texas financing system a reasonable method of giving communities broad control over their own schools? Why or why not? How could the system be improved to guarantee both local control over the schools and equal opportunity for the people who live in each school district? Should decisions about improving the ways that schools raise money be left to local school systems, state legislatures, or the courts? Why?

D. In what ways, if any, does a child's education depend on the amount of money spent on his or her school? Do you think that the more money a school spends, the better its students will be educated? Why or why not?

- After answering the questions, read the following summary of the Supreme Court's decision in Rodriguez.

The Supreme Court found that the Texas system of paying for public education did not discriminate against any particular group of people. In addition, the justices found that the Texas plan did not affect any right guaranteed by the Constitution. Education, according to the Court, was not a "fundamental right" that the Constitution was meant to protect. The Texas plan could stay in effect.

- Discuss the issues either with the entire class or in small groups.

Results/Benefits

Your students understand that there is no automatic constitutional right to a public education. They also learn that the courts provide no special protection to poorer people in matters of education.

Additional Resources

ED 224 108

Uerling, Donald F., "The Supreme Court and Educational Policy: The Protected Interests in Education." Paper presented at the Annual Meeting of the National Conference of Educational Administration (36th, San Marcos, TX, August 15-20, 1982) p. 14-18.

ED 283 243

McCarthy, Martha M. and Nelda H. Cambron-McCabe. "The Legal Foundation of Publication Education." *Public School Law: Teachers' and Students' Rights* (2d Ed.). Newton, MA: Allyn and Bacon, Longwood Division (1987), 538 pp.

The Rights of Minors and Education Law

Yes, You Have to Go to School

Source

ED 298 629

McGee, Jerry C., "Compulsory Attendance vs. Home Instruction." Huntsville, TX: Sam Houston State University (1988) p. 2-4.

Brief Description

Pierce v. Society of Sisters (1925) was a landmark case that clarified the notion of compulsory education. Students are exposed to the concept of compulsory education, as well as its limits.

Objective

To learn the origin and legal basis of the notion that children must attend school until reaching a specified age.

Procedures

- Read the following case summary.

Pierce v. Society of Sisters **(U.S. 1925)**

During the 1920s, under pressure from the Ku Klux Klan and other groups that objected to private religious schools, the Oregon legislature was pressured into passing a bill that required all children to attend public school until the age of 16. Other states had done the same. Students and parents argued that the rule interfered with their religious beliefs in violation of the First Amendment. Parents also argued that Oregon's action blocked parents' rights to direct the upbringing of their children. Private-school administrators (including the Society of Sisters who took their legal challenge all the way up to the U.S. Supreme Court) argued that the Oregon law interfered with their property rights by making the schools that they owned worthless to them.

- Write answers to the following questions:

A. Do you think the Oregon law was constitutional? Why or why not?

B. How does requiring a child to go to public school interfere with that student's religious beliefs?

C. Does a parent have a right to control the education of a child? Why or why not? If so, what limits should there be on a parent's right to direct his or her child's upbringing?

D. Does a state interfere with property rights in closing down private schools? Another party that brought a suit against

the Oregon law was a group that ran a military academy. Is its position any different from that of the Society of Sisters?

- Read the following summary of the Supreme Court's holding.

The justices concluded that the state law "unreasonably interferes with the liberty of parents...to direct the upbringing and education of children under their control. The child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations." The Court also accepted the religious and property-right arguments.

- Discuss the issues with the class.

Results/Benefits

Students investigate the legal background of compulsory education. They also view the broader notion that a single legal problem can have varying implications, as in this case in which the legal challenge had implications for religious practice, parental control, and property rights.

Additional Resource

ED 310 506

Faber, Charles F., et al. *School Law for Kentucky Teachers and Administrators* (3d Ed.). Lexington, KY: University of Kentucky (1989), 336 pp.

Comments

At this point, you may wish to discuss *Wisconsin v. Yoder*, a 1972 case in which the Supreme Court set another limit on compulsory education. The justices held that a state could not require a student to attend school past the eighth grade if the student were a member of a historically long-standing religious community (in this case, an Amish community) that provided its own form of vocational education and existed in a community separate from that of the larger society. This exception has been applied so narrowly by the courts that it has come to be known as the "Amish exception."

The Student's Right to a Hearing upon Suspension

Source

ED 289 665

Carey, John J. "Law Related Education Curriculum." New Mexico: Crownpoint Institute of Technology (1987) 130 pp.

Brief Description

Students read the leading case on the subject of academic suspension and take part in a role-playing exercise.

Objective

To familiarize students with the due-process right to a hearing upon suspension or expulsion from school.

Procedures

- Read the Fifth and Fourteenth Amendments to the U. S. Constitution (Appendix A).
- Read the following case summary.

Goss v. Lopez **(U.S. 1975)**

During violent demonstrations at a public school, police officers took a number of students into custody. Those students were suspended for ten days. Some of the students challenged the suspensions because there had been no hearings or opportunities to present the students' side of the incident. They claimed that "due process," as the term is used in the Fifth and Fourteenth Amendments, guaranteed them a hearing as a matter of fairness.

The Supreme Court sided with the students. Because notice of the suspensions would appear on the students' permanent records, the suspensions could be seen as punishment. For that reason, due process required that the students be notified of any charges and that they be given a hearing and an opportunity to be heard. In cases of emergency, students could be removed from school before the suspension hearing, but in such a case a hearing had to be held as soon as possible after removal. The suspension hearing did not have to be as formal as a trial, with the ability to call witnesses and present evidence; however, the Court suggested that an expulsion or a suspension of longer than ten days might require more formal procedures.

- Write a school policy that conforms to the Supreme Court's decision in *Goss v. Lopez*.
- Take part in a mock suspension hearing involving a school administrator, a coach, and five students charged with violating curfew while on an athletic trip.

Additional Activities

Generally, when a person is put on trial for a crime, there must be more evidence against the person than just hearsay (the past statements of people who are not present in court). The accused must also have the opportunity to cross-examine opposing witnesses. However, the courts have held that these rights need not be guaranteed to minor students in school suspension or expulsion hearings. (See Donald M. Sacken's article, "Due Process in Student Discipline," in *West's Education Law Reporter* 50 (February 2, 1989) p. 305-16 (EJ 383 903).) Discuss this different treatment of minors. Are there reasons for offering less protection to students facing suspension than to criminal suspects? If so, what are the reasons?

Results/Benefits

Students develop a fuller understanding of school suspension policy through reading, writing, and role-playing activities that underscore aspects of the issue.

Additional Resources

Cooper, Dolores J. and John L. Swope, Jr. "Long Term Suspensions and Expulsions after Goss." *West's Education Law Reporter* 57 (January 18, 1990) p. 29-42.

Sacken, Donald M. "Due Process in Student Discipline." *West's Education Law Reporter* 50 (Feburary 2, 1989) p. 305-16.

ED 315 888

T. Page Johnson. *Procedural Due Process and Fairness in Student Discipline: A Legal Memorandum*. National Association of Secondary School Principals , Reston, VA: National Association of Secondary School Principals, 1990, 10 pp.

Disciplining Disabled Students

Source

ED 274 069

Center, David B., "Expulsion and Suspension of Handicapped Children." Paper presented at the Annual Meeting of the Mississippi Association of School Administrators (Jackson, MS, October 13-14, 1986) p. 3-6.

Brief Description

Students consider the unique problems that arise when schools attempt to discipline students with disabilities.

Objective

To develop a greater recognition of the challenges faced by disabled students and the difficulties encountered by school officials when they attempt to exercise control over those students.

Procedures

- Discuss the following questions in class:

A. Should a school be able to discipline a disabled student? Why or why not?

B. What should happen if a student is misbehaving because of his or her disability (for example, an emotional disability)?

C. In general, do you think that a regular school is the place for disabled children? Should the kind of disability matter?

- Read the following summary of what the courts have said about the question of disciplining disabled students:

In *S-L v. Turlington* (1981), the U.S. Court of Appeals affirmed a state court decision that held that expelling a disabled student triggered certain federal protections for the disabled. Before such a student could be expelled, a group of professionals had to decide whether the student's misconduct was directly related to the disability. If there were no direct relationship, the student could be expelled. Other appeals courts have agreed with this holding: *Kaelin v. Grubbs* (1982); *School Board of Prince County v. Malone* (1985). If the misbehavior is found to be directly connected to the disability, the student may be placed in a special program apart from the regular school.

The courts' approach to the use of suspensions against the handicapped has been similar. In *Board of Education of the City of Peoria, School District 150 v. Illinois State Board of Education* (1982), a federal district court upheld the short-term suspension of

a disabled student whose misbehavior was not directly related to the student's disability.

An exception to these general rules was made clear in the district-court decision of *Jackson v. Franklin County School Board* (1985). The court ruled that a disabled student could be immediately removed from school for disability-related behavior if the activity were a clear danger to the student or other people.

Results/Benefits

Students get an idea of the disciplinary difficulties faced by school administrators who deal with the disabled. Furthermore, students observe that, as is true with respect to other legal issues, in the case of the disabled, the courts may be called upon to determine the appropriate balance between personal rights and government power.

Additional Resources

ED 315 888

T. Page Johnson. *Procedural Due Process and Fairness in Student Discipline: A Legal Memorandum*. Reston, VA: National Association of Secondary School Principals , 1990, 10 pp.

Hindman, Sara E. "The Law, the Courts, and the Education of Behaviorally Disordered Students." *Behavioral Disorders* 11 (August 1986) p. 280-89.

Comments

This lesson could be part of a group of lessons on the disabled. Discuss the rights of the disabled and invite an advocate for the disabled to discuss such issues as discrimination and equal access to facilities.

The Rights of Minors and Education Law

INGRAHAM v. WRIGHT and the Teacher's Paddle

Source

ED 311 595

Buechler, Mark; and others, "The Debate over Corporal Punishment. Policy Memo Series No. 5." Bloomington, IN: Consortium on Educational Policy Studies (1989) p. 6.

Brief Description

The class studies a significant Supreme Court case on the subject of corporal punishment in the schools.

Objective

To expand the understanding of the Eighth Amendment ban on cruel and unusual punishment by analyzing the issue in the context of the classroom.

Procedures

- Read the Eighth Amendment (see Appendix A).
- Read the following hypothetical case.

A student is misbehaving in class after repeatedly being told to stop what he is doing. Finally, the angered teacher calls the student to the front of the room and displays a large paddle. The student promises to quiet down, but the teacher gives the student ten swats. Although the student is not injured, the family brings a lawsuit against the teacher, the school, and the school board, claiming that the paddling was a violation of the Eighth Amendment ban on cruel and unusual punishment.

- Discuss the following questions in class.

A. Does the paddling violate the Eighth Amendment? Why or why not?

B. Would it have made any difference in terms of the Eighth Amendment if the student had been hurt? Why or why not?

C. Does the relationship between the number of swats and the kind of misbehavior make any difference? In other words, might it be cruel and unusual punishment to give a student fifty swats for talking once in class? Where would you draw the line?

- Read the following summary of the Supreme Court's view of corporal punishment in the classroom.

Ingraham v. Wright **(U.S. 1977)**

By a one-vote margin, the U.S. Supreme Court rejected constitutional challenges to paddling in school. Although the Court accepted evidence showing that the students had been severely paddled, a majority of the justices felt that the punishment violated neither the Eighth Amendment ban on cruel and unusual punishment nor the Fourteenth Amendment guarantee of due process (here meaning "fairness of procedure"). The Supreme Court made it clear that it would prefer in the future for such cases to be settled in the state courts under state law. In the Ingraham decision, the Court also noted that families could pursue civil personal injury lawsuits or criminal assault and battery charges against teachers in cases of excessive beatings.

Results/Benefits

Students see the constitutional basis for paddlings in the classroom, and broaden their understanding of the Eighth and Fourteenth Amendments.

Additional Resource

ED 283 243

McCarthy, Martha M. and Nelda H. Cambron-McCabe. "Student Discipline." *Public School Law: Teachers' and Students' Rights* (2d. Ed.). Newton, MA: Allyn and Bacon, Longwood Division (1987), 538 pp.

Comments

You probably know that—notwithstanding the Supreme Court's holding in *Ingraham*—some schools still adhere to the stricter rules set down by a North Carolina federal district court in *Baker v. Owen* (1977). While upholding corporal punishment in the schools, the court set certain guidelines: (a) Except in cases of highly antisocial misconduct, corporal punishment may be used only as a last resort. (b) Students must be informed ahead of time of the possibility that specific kinds of misbehavior will result in corporal punishment. (c) When corporal punishment is administered, another school official must be present. (d) Upon request, the official administering the punishment must give the student's parents a written explanation of the reason for the punishment and the name of the second school official present at the punishment. Before hearing the *Ingraham* case, the Supreme Court affirmed the *Baker* decision without issuing an opinion.

The Rights of Minors and Education Law

Who Controls the School Library?

Source

ED 272 994

Terry, John David II, "Censorship: Post Pico," in Jones, Thomas N. and Semler, Darel P., eds., "School Law Update, 1986." Topeka, KS: National Organization on Legal Problems, 257 pp.

Brief Description

The class considers *Pico v. Island Trees Union Free School District*, one of the most important cases dealing with the authority of school administrators over what students read.

Objective

To discover the scope of a school board's ability to control student access to the ideas contained in school library books.

Procedures

- Read the following summary of the *Pico* case:

Pico v. Island Trees Union Free School District **(U.S. 1982)**

School board members attended a conference at which they were given a list of books labelled anti-American, anti-Christian, anti-Semitic, and filthy. The board ordered the superintendent to remove from the school district's libraries any books that appeared on the list. The superintendent objected to the move, saying that the board should follow the book removal policy that it had established earlier. This policy called for the board to set up a committee to study the issue and make recommendations. Despite the superintendent's argument, several books were taken off school libraries' shelves.

- In a short paper, answer the questions that follow:

A. Does the removal of the books from the Island Trees district's school libraries' shelves violate student rights? Why or why not?

B. What kind of procedure would you recommend for acquiring or removing school library books?

C. Do you see any reasons for limiting what books should be put in school libraries or limiting the ways of removing them once they are there? Does the age of the students using the library have anything to do with your answer?

- Read the following summary of what the Supreme Court decided in the *Pico* case.

A plurality of the Court, led by Justice William Brennan, ruled that school board discretion over the removal of books from school libraries is limited. The school board may remove books found to be educationally unsuitable, as long as partisan political considerations are not decisive factors in the board's decision. By "decisive factors," the Court meant factors without which the board would have come to an opposite decision. Because the justices did not think that the district court's record was clear on that point, they ordered the case sent back to the lower court for trial. However, Brennan's opinion suggests that, in his judgment, the board's decision to remove the books showed insensitivity to the students' right to receive information.

Additional Activities

Ask students to look for newspaper stories about efforts to ban certain books from school or public libraries. Invite a representative of the American Booksellers Association, American Library Association's Freedom to Read Foundation, American Society of Journalists and Authors, or your local or state chapter of the American Civil Liberties Union to talk to your class about book-banning campaigns.

Though intended for younger students (grades five through eight), the eighteen-minute dramatic video, "T.J.'s Rights," offers a quick look at school library censorship. The tape, available from Maryland Instructional Television, 11767 Owings Mills Blvd., Owings Mills, MD 21117 (phone (310) 581-4207), is accompanied by a teacher's guide.

Results/Benefits

Students find out that school officials have a great deal of control over the content of school libraries. As long as a school board can point to something other than obviously political reasons for pulling a book off library shelves, the action will probably withstand legal scrutiny. After *Pico*, school officials should be able to devise reasonable explanations for withdrawing books.

Comments

If your school has a policy on the content of the library, discuss it with your students at this point. The students can analyze the policy for compliance with the *Pico* decision. Discuss how difficult it would be to defend the removal of a book from a school library for narrowly political reasons.

Additional Resources

ED 319 067

Gottlieb, Stephen S. "The Right to Read: Censorship in the School Library." ERIC Digest. Bloomington, IN: Educational Resources Information Center for Reading and Communication Skills (June 1990) 4 p.

Lanier, Gene D., et al. "Censorship." *North Carolina Libraries* 45 (Fall 1987) p. 15-30, 133-35, 137-47.

Moss, Lee A. "A Case Against Censorship of School Libraries." *Georgia Social Science Journal* 20 (Winter 1989) p. 4-6.

Thomas, Stephen B. and Renne E. Weisbaum. "Legal Update—The Censorship of Library Books: *Board v. Pico*." *Texas Tech Journal of Education* 10 (Fall 1983) p. 189-93.

The Rights of Minors and Education Law

Race Controversies in the Public Schools. Part A: PLESSY

Brief Description

In this first of two lessons on school desegregation, students examine the treatment of African-Americans in our society prior to legally-mandated desegregation.

Objective

To visualize the state of American public schools and society in general before the civil rights movement and the courts began the desegregation process.

Procedures

- Read the following case summary:

Plessy v. Ferguson **(U.S. 1896)**

After the Civil War ended, Congress passed the Thirteenth Amendment abolishing slavery. However, prejudices against African-Americans remained strong. Southern states passed "Jim Crow" laws to keep blacks separated from whites. The Plessy case arose when a group of African-American leaders formed a Citizens' Committee to test the constitutionality of a "Jim Crow" law in Louisiana.

Acting for the Committee, Homer Plessy, who was one-eighth African-American, bought a train ticket in Louisiana. Plessy took a seat in the railroad car reserved "for whites only," ignoring the car marked "for Coloreds only." When Plessy refused to move to the "Coloreds only" car, he was arrested under a state law requiring separate railroad accommodations for blacks and whites.

Plessy claimed the Louisiana statute denied him "equal protection of the laws" as guaranteed by the Fourteenth Amendment. Plessy's lawyers also claimed that the statute violated the Thirteenth Amendment's ban on slavery by destroying the legal equality of the races and, in effect, by bringing back slavery.

By an 8-1 vote the U.S. Supreme Court ruled against Plessy and for segregation. The Court held that the Equal Protection Clause

Source

ED 258 891

Patrick, John J. and Richard C. Remy. "Lessons on the Constitution: Supplements to High School Courses in American History, Government and Civics." Washington, D.C.: Project '87 of the American Historical Association and the American Political Science Association; distributed by Boulder, Colorado: Social Science Education Consortium (1985) 310 pp.

Comments

Does "segregation" still exist? Invite your students to bring to class news clippings and reports from other media that demonstrate the ongoing struggle for racial equality and civil rights in America.

of the Fourteenth Amendment allowed a state to provide "separate but equal" facilities for blacks. Justice Henry Brown wrote that the Fourteenth Amendment was intended "to enforce the absolute equality of the two races before the law, but in the nature of things it could not have been intended to abolish distinctions based upon color, or to enforce social...equality."

The Court also ruled that the Louisiana law did not violate the Thirteenth Amendment's ban on slavery. Justice Brown said that a law "which implies merely a legal distinction between the white and Colored races...has no tendency to...reestablish a state of involuntary servitude [i.e., slavery]."

The *Plessy* decision was a defeat for the early civil rights movement. The Supreme Court's ruling meant that states could keep treating African-Americans as second-class citizens by continuing to pass "Jim Crow" laws. For many years after *Plessy*, courts refused to reconsider the "separate but equal" principle. Judges would review only whether the separate facilities provided for African-Americans were equal to those provided for whites.

- Write answers to these questions about the case:

A. What were "Jim Crow" laws? Why were they passed?

B. What law led to Homer Plessy's arrest?

C. For whom was Plessy acting when he refused to sit in the coach "for Coloreds only"?

D. Which two amendments did Plessy claim that the Louisiana statute violated?

E. Did the Court rule for Louisiana or for Plessy?

F. What rights did African-American citizens lose as a result of the Plessy decision?

G. Which statement describes the effect of the "separate but equal doctrine" established by the *Plessy* case?

1. Future justices limited themselves to considering whether separate facilities for black people were equal.
2. The decision prevented states such as Louisiana from discriminating against blacks.
3. The decision gave Congress separate but equal powers to enforce segregation laws.
4. The decision encouraged states such as Louisiana to pass more laws separating blacks and whites in public facilities.

- Discuss your answer in small groups.

Additional Activites

The Thirteenth and Fourteenth Amendments were added to the Constitution after the Civil War to put an end to slavery and help assure the equal status of American citizens without regard to race. The video, "Equal Protection of the Laws," explores this concept. For a copy of the tape, contact the Agency for Instructional Technology (AIT), Box A, Bloomington, IN 47402 (phone (800) 457-4509 or (812) 339-2203). The tape and accompanying teacher's guide are parts of the 1987 series, "The U.S. Constitution," by AIT.

Results/Benefits

Students will know more about the "separate but equal" stage of court rulings on facilities for Blacks and Whites. This lesson sets the stage for the next one—an analysis of *Brown v. Board of Education*.

Additional Resource

Franklin, John Hope. "Race and the Constitution in the Nineteenth Century." *Update on Law-Related Education* 12 (Fall 1988) p. 8-13.

The Rights of Minors and Education Law

Race Controversies in the Public Schools. Part B: BROWN

Source

ED 283 243

McCarthy, Martha M. and Nelda H. Cambron-McCabe. "School Desegregation." *Public School Law: Teachers' and Students' Rights* (2d Ed.). Newton, MA: Allyn and Bacon, Longwood Division (1987), 538 pp.

Brief Description

Through reading and writing activities, this lesson familiarizes students with the manner in which the school desegregation movement made progress in American public schools.

Objective

To gain an understanding of the most significant legal battle through which American public schools were desegregated.

Procedures

- Read the following case summary.

Brown v. Board of Education **(U.S. 1954)**

Despite the *Plessy* decision (see previous lesson), not all Americans accepted the view that the Constitution allowed racial discrimination. In 1909, a group of black and white Americans formed the National Association for the Advancement of Colored People (NAACP) to fight segregation and racial injustice. In the 1930s and 1940s, the NAACP brought lawsuits that prompted the courts to strike down segregation in public universities, political primaries, and railroads.

In the early 1950s, desegregation cases from five states made their way through the court system. In each case the parents of African-American schoolchildren, with the help of the NAACP, asked courts to strike down laws requiring segregated public schools. Eventually the Supreme Court considered these cases in *Brown v. Board of Education of Topeka*, a case that got its name from the family of a seven-year-old African-American girl who was barred from attending a "whites-only" school just six blocks from her home in Topeka, Kansas.

The NAACP presented evidence that separating Black and White students discriminated against Blacks, placing them at a severe disadvantage. Attorneys for the group argued that segregated

schools were not, and could never be, equal, and therefore violated the Equal Protection Clause of the Fourteenth Amendment.

The NAACP's opponents argued that the framers of the Fourteenth Amendment never meant it to end school segregation. Further, they claimed that the courts did not have the authority to order the states to desegregate their schools.

As a matter of strategy, the NAACP accepted the argument that the separate schools for Blacks were equal to those for Whites, although in truth, the Blacks' schools often had no heat and no indoor plumbing. The NAACP accepted this point so that it could argue that separation of the races itself made the Black and White schools unequal, and not just the unequal-quality school facilities.

On May 17, 1954 the Supreme Court unanimously struck down the "separate but equal" doctrine as an unconstitutional violation of the Fourteenth Amendment. In the Court's opinion, Chief Justice Earl Warren wrote that segregation gave African-American children "a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely to ever be undone." Even if segregated schools gave Blacks access to equal physical facilities, Warren argued, the separation of the races deprived students of equal educational opportunities. Thus, Warren declared:

We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal.

Progress in desegregating schools after the Brown decision was slow. For instance, the decision prompted Prince Edward County, Virginia to close all of its public schools rather than integrate them. And although in *Brown v. Board of Education II*, a 1955 follow-up to the 1954 case, the Court ordered school districts to desegregate "with all deliberate speed," there was little movement. In 1969, therefore, the Court ordered that desegregation be ended "at once." By 1978, forty percent of African-American children and children of other ethnic minorities were attending integrated schools. However, even today, school desegregation suits or court adjustments of settlements of past cases occasionally arise.

- Write answers to these questions about *Brown*:

A. How did the Equal Protection Clause of the Fourteenth Amendment relate to the complaint in Brown? Choose and explain correct answer(s) from among these statements:

   1. African-Americans claimed that the Equal Protection Clause prohibited segregated schools.

Comments

Invite your students to bring to class news clippings and other reports of media coverage of ethnic struggles elsewhere in the world. Some examples are the conflict over *apartheid* in South Africa, the continuing disputes between Jews and Palestinian Arabs in Israel, and opposition to the immigration of Asians and Africans into Europe. How are these situations like the American struggle for integration. How do they differ?

2. The NAACP argued that *Plessy v. Ferguson* guaranteed equal protection.

3. In *Brown*, the Court overturned the meaning given to the Equal Protection Clause in the Plessy decision.

B. Did *Brown v. Board of Education* end segregation in American public schools?

C. Many historians and legal scholars continue *Brown* one of the landmark cases of American history. Do you agree? Why or why not?

- Discuss your answers in class.

Additional Activities

There are many excellent video programs available that deal with the civil rights movement, the *Brown* decision, and related efforts to win school desegregation. "The Road to Brown," a 1989 film by William A. Elwood, traces the legal attack on racial separation in schools from its beginnings to its culmination in the *Brown* decision. To obtain the tape, contact Resolution Inc./California Newsreel, 149 Ninth St., #420, San Francisco, CA 94103 (phone (415) 621-6196).

Results/Benefits

Students have read, thought critically, and written about one of the most critical issues that American courts have faced: how to assure equal access of all students to public education, regardless of race. It should now be well understood that Blacks and Whites sit side by side in classrooms not as a matter of course, but because of a long legal struggle that continues today.

Religion and the Schools. Part A: The Establishment Clause

Brief Description

Students read about, and consider, the difficult issue of government promotion of prayer in public schools.

Objective

To learn about the Establishment Clause of the First Amendment and its implications for government support of religious exercise in the public schools.

Source

ED 296 472

Connors, Eugene T., "Religion and the Schools: Significant Court Decisions in the 1980s." Bloomington, IN: Phi Delta Kappa Educational Foundation (1988) 42 pp.

Procedures

- Reread the First Amendment to the U. S. Constitution (Appendix A).
- The so-called "Establishment Clause" of the First Amendment states, "Congress shall make no law respecting an establishment of religion...." Think about this wording and discuss what it means.
- Write what you think are the answers to the following questions, based upon your understanding of the First Amendment. Give reasons for your answers in each instance.

A. May a state legislature write a prayer that all students have to say in public schools?

B. May public school officials begin the school day with a Bible reading?

C. May a public school set aside time for voluntary prayer by students?

D. May a public school provide time for students to meditate silently?

E. May the government provide any money to religious schools?

F. May a public school classroom display a Nativity scene at Christmas?

- Discuss your answers with your classmates in small groups.
- Read the following summary of the U.S. Supreme Court's views of these practices.

In the 1962 case, *Engel v. Vitale*, the Supreme Court struck down a New York law that provided an official prayer to begin each school day. The prayer, written by the state's Board of Regents, was seen as an unconstitutional establishment of religion. The following year, in *Abington School District v. Schempp* and in *Murray v. Curlett*, the Court ruled that school prayer and Bible readings also violated the Establishment Clause.

In 1985, the Supreme Court decided *Wallace v. Jaffree*, a case in which a challenge was brought against three Alabama laws. The first law allowed students to engage in silent meditation in public school; the second permitted silent meditation or voluntary group prayer; and the third provided for group prayer. The Supreme Court began by striking down the third law, as it directly conflicted with the *Schemmp* decision and the justices' general view of the Establishment Clause. The second law was also struck down because of the voluntary group prayer element. However, the Supreme Court did not (and has not since) struck down school or state rules allowing public school students to take part in silent meditation.

Whether or not the government at any level can provide financial support to private religious schools depends in part upon how the aid is used. For instance, the Supreme Court has ruled that the government can pay for the buses that take children to and from religious schools (*Everson v. Board of Education* (1947)), can permanently "loan" textbooks to religious schools (*Board of Education of Central School District No. 1 v. Allen* (1968)) and can offer therapy services in religious schools (*Wolman v. Walter* (1977)). However, the Court has determined that the government cannot pay for public school teachers offering classes in religious schools (*Aguilar v. Felton* (1985), *Grand Rapids School District v. Ball* (1985)) and cannot supplement the salaries of teachers in religious schools (*Lemon v. Kurtzman* (1971)).

In the 1989 case of *County of Allegheny v. American Civil* Liberties Union, the Supreme Court ruled that because it was a government building, a county courthouse could not feature a Nativity scene. Justice Harry Blackmun wrote that the display was entirely religious, and that it had the effect of endorsing the Christian faith. Most of the justices, however, did not object to the presence of a Hanukkah symbol in the same display. Blackmun believed

Comments

Religion cases have often been decided under the "Lemon test," named for one of the cases in which the Supreme Court applied the test (*Lemon v. Kurtzman*). *According to this test, a state law: (1) must have a secular purpose; (2) must not have the effect of advancing or inhibiting religion (even if there is no religious purpose); and (3) must not foster excessive government entanglements with religion. In recent years, however, some on the Supreme Court have proposed a simpler approach: Does a challenged statute seem to be an endorsement of religion?*

that few people would understand the display as an endorsement of the minority religion of Judaism.

Additional Activities

An hour-long video program entitled "Supreme Court Holy Battles" examines Thomas Jefferson's belief that religion is a personal matter in which the government should play no role. To get a copy of the tape for your class, call or write the Anti-Defamation League of B'nai B'rith, 823 United Nations Plaza, New York, NY 10017, (212) 490-2525.

Results/Benefits

Students have an opportunity to examine a constitutional text and apply it to actual legal problems. More specifically, they have explored the difficulty of balancing school authority and religious freedom.

Additional Resources

Butts, R. Freeman. "A History and Civics Lesson for All of Us." *Education Leadership*. 44 (May 1987) p. 21-25.

Urofsky, Melvin I. "The Religion Clauses." *Bill of Rights, Magazine of History: For Junior and Senior High School Teachers* vol. V, n. 1 (Summer 1990) Organization of American Historians, p. 20-24.

Vile, John R. "Religious Expressions in High School Valedictory Addresses: *Guidry v. Calcaseiu Parish School Board*." *West's Education Law Reporter* 53 (August 3, 1989) p. 1051-65.

Comments

Invite your students to discuss the proposed "voucher system" and other means of funnelling public funds to private, religious schools. Why does the U.S. government need to "keep religion out of the public schools"?

Ask students to bring in newspaper and magazine clippings that address Establishment Clause issues.

Religion and the Schools. Part B: The Free Exercise Clause

Source

ED 313 813

Ehrhardt, Cathryn. *Religion in the Public Schools: Free Exercise, Information, and Neutrality*. Alexandria, VA: Educational Policies Service, National School Boards Association (1990), 5 p.

Brief Description

Students review the difficult issue of government support for religious schools.

Objective

To appreciate the continuing legal significance of the Free Exercise Clause in resolving challenges to laws that are said to intrude on the religious beliefs of individuals.

Procedures

- Reread the First Amendment to the U. S. Constitution (Appendix A).
- The so-called "Free Exercise Clause" of the First Amendment states that "Congress shall pass no law...prohibiting the free exercise" of religion. Discuss the meaning of the clause.
- Write out what you think are the answers to the following questions, based on the Free Exercise Clause.

A. If a student's religion forbids it, may a public school force him or her to say the Pledge of Allegiance?

B. May parents who object on religious grounds to the public school curriculum be forced to send their children to school, or may they teach their children at home?

C. May a teacher refuse to teach material that he or she finds objectionable on religious grounds?

D. May students or parents challenge the teaching of sex education or family planning in public school, on the grounds that it violates their moral choices and their free exercise of religion?

- Discuss your answers with a group of classmates.

- Read the following summary of how the courts have decided these issues:

In *West Virginia Board of Education v. Barnette* (1943), the Supreme Court ruled that a student could not be forced to recite the Pledge of Allegiance. The justices concluded that the student's religious rights had to prevail over the school's power to encourage patriotism in this forceful way.

The Supreme Court in 1983 declined to review a decision from the Fourth Circuit U.S. Court of Appeals in the case of *Duro v. North Carolina*. Members of the appeals court refused to allow parents who saw the public school curriculum as anti-Christian to teach their children at home. In reaching its decision, the court found no evidence that the parents' religion taught rejection of public education. Second, the court noted that the children would someday need to be integrated into the larger society anyway. On this point, the case was seen by the court as unlike challenges brought by such groups as the Amish, who stay apart from the larger society throughout their lives.

Teachers have no religion-based right to deprive public school students of what the state considers a higher quality education. That was the decision of the Seventh Circuit Court of Appeals in *Palmer v. Board of Education of the City of Chicago* (1979). In that case, a teacher had refused for religious reasons to lead schoolchildren in the Pledge of Allegiance or in patriotic songs. The court determined that the school system's failure to renew the teacher's contract did not violate her religious rights. Most other cases on related subjects have been decided similarly.

Courts have been fairly consistent in deciding religious challenges to the teaching of sex education in public schools. As long as schools allow for some type of exclusion from offensive parts of the program, courts have ruled that there is no violation of religious rights. In fact, courts have gone so far as to say that allowing one parent's religious views to control the curriculum would amount to establishing that parent's belief as the state religion. This would be the case because one parent's beliefs would be controlling what an entire class of public school students would be learning.

Additional Activities

A study of the struggle of Iowa's Amish community for religious freedom is included in the article, "Constitutional Issues and Iowa," edited by Deborah Gore, in *Goldfinch* 8 (February 1987, 25 pp.) (ED 282 807). If your school is located reasonably close to an Amish or Mennonite community, arrange for a class field trip. This will give students an opportunity to understand why such

Comments

Each new Supreme Court term brings new cases on the relationship between religion and government. Ask a lawyer or legal researcher to locate newly decided cases. Provide your students with sufficient materials and information to get a grasp of the issues at stake. Empanel your students as a Supreme Court and have them reach their decision. Compare your court's decision with the one made by the Supreme Court in Washington, D.C.

people desire to maintain their own traditions, apart from the modern world.

Results/Benefits

Through these lessons on the religion clauses, students begin to comprehend the difficult questions that these cases pose for the courts. They should by now have the idea that there are not always clear yes/no answers to be found in the Constitution, and that courts must work from the facts presented by specific cases.

Additional Resources

Kniker, Charles R. "Accommodating the Religious Diversity of Public School Students: Putting the Carts before the Horse." *Religion and Public Education* 15 (Summer 1988) p. 304-20.

Urofsky, Melvin I. "The Religion Clauses." *Bill of Rights, Magazine of History: For Junior and Senior High School Teachers* vol. V, n. 1 (Summer 1990) Organization of American Historians, p. 20-24.

Part Four: Introduction

As we have already seen, the American legal system extends quite different sets of rights to adults and minors. This point becomes most obvious in some particular circumstances which we explore in this Part. In school, for example, students are subjected to searches and to restrictions on personal expression that adults would not, and need not, tolerate in other settings. While a police officer cannot search an adult without very strong justification, a school official wanting to search a student need only show that such a search is "reasonable." On the job, minors face restrictions on where they may work, for how long, and the kinds of tasks they can perform.

Different rules apply to minors even when they engage in extracurricular activities. As the chapter entitled "The Play's the Thing" demonstrates, even students' selection of material for a school play is subject to scrutiny by adults. The free-expression rights of the minors are viewed by school administrators, many parents, and a number of courts as less important than the assumed need of school officials to maintain order and discipline.

The chapter entitled "Is This a Stadium or a Courtroom?" is intended to serve a dual function. On one level, students may view the adjudication of legal disputes over school-based sports as another example of adult administrators' control over student life. We look at cases in which disputes moved the athletic arena into the legal system. From a broader perspective, it becomes clear that the consideration of the legal implications of our acts has become increasingly important in every aspect of daily experience. What is the extent of my liability if I make a particular decision? Will I be sued if something goes wrong? Who might sue me? Students learn that ours truly is a highly litigious society. More and more, it appears that the risk of litigation is supplanting the threats of community censure and criminal prosecution as the leading form of behavioral control. Ask your students whether they believe this trend is healthy, and whether they think the people who formed our government intended the lawsuit to become the primary means of social control.

Also in this Part, we invite students to think about contracts, employment, and wills. Throughout their lives, your students will be entering into contracts and other, less formal agreements. Chapters entitled "Your Right to Enter into Contracts" and "The Rights of Minors in the Law of Contracts and Wills" explore some of the issues involved. A chapter called "Work, Save, Tax and Borrow: Teens in the Working World" asks your students a series of specific questions about such important topics as taxation and limitations on juvenile employment. These chapters make it clear that the law is not an exercise in constitutional theory, but rather a system that affects many phases of daily life. As they are beginning to enter the working world, it is important for your students to have a basic understanding of some of these issues.

Individual Freedom at School and in the Working World

217 (III). International Bill of Human Rights

A

UNIVERSAL DECLARATION OF HUMAN RIGHTS

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

217 (III). Charte internationale des droits de l'homme

A

DÉCLARATION UNIVERSELLE DES DROITS DE L'HOMME

PRÉAMBULE

Considérant que la reconnaissance de la dignité inhérente à tous les membres de la famille humaine et de leurs droits égaux et inaliénables constitue le fondement de la liberté, de la justice et de la paix dans le monde,

Considérant que la méconnaissance et le mépris des droits de l'homme ont conduit à des actes de barbarie qui révoltent la conscience de l'humanité et que l'avènement d'un monde où les êtres humains seront libres de parler et de croire, libérés de la terreur et de la misère, a été proclamé comme la plus haute aspiration de l'homme,

Considérant qu'il est essentiel que les droits de l'homme soient protégés par un régime de droit pour que l'homme ne soit pas contraint, en suprême recours, à la révolte contre la tyrannie et l'oppression,

Considérant qu'il est essentiel d'encourager le développement de relations amicales entre nations,

Considérant que dans la Charte les peuples des Nations Unies ont proclamé à nouveau leur foi dans les droits fondamentaux de l'homme, dans la dignité et la valeur de la personne humaine, dans l'égalité des droits des hommes et des femmes, et qu'ils se sont déclarés résolus à favoriser le progrès social et à instaurer de meilleures conditions de vie dans une liberté plus grande,

Considérant que les États Membres se sont engagés à assurer, en coopération avec l'Organisation des Nations Unies, le respect universel et effectif des droits de l'homme et des libertés fondamentales,

Considérant qu'une conception commune de ces droits et libertés est de la plus haute importance pour remplir pleinement cet engagement,

L'Assemblée générale

Proclame la présente Déclaration universelle des droits de l'homme comme l'idéal commun à atteindre par tous les peuples et toutes les nations afin que tous les individus et tous les organes de la société, ayant cette Déclaration constamment à l'esprit, s'efforcent, par l'enseignement et l'éducation, de développer le respect de ces droits et libertés et d'en assurer, par des mesures progressives d'ordre national et international, la reconnaissance et l'application universelles et effectives, tant parmi les populations des États Membres eux-mêmes que parmi celles des territoires placés sous leur juridiction.

BEST COPY AVAILABLE

Free Speech inside the Schoolyard

Source

ED 289 665

Carey, John J., Law Related Education Curriculum. Crownpoint, NM: Crownpoint Institute of Technology (1987) 130 pp.

Brief Description

Students review and comment upon their school's discipline policy in light of Supreme Court decisions on student free expression in school.

Objective

To expose students to prevailing law on the right to express themselves freely on school premises, and to have the students examine that law critically.

Procedures

- Read the following case summaries.

Tinker v. Des Moines School District **(U.S. 1969)**

During the Vietnam War some high schoolers came to class wearing black armbands as a protest of the war. Because school officials felt that the effect of the armbands was disruptive, the students were suspended.

On appeal, the Supreme Court overturned the suspensions, viewing the wearing of the armbands as a symbolic act very close to the sort of political speech that the First Amendment was designed to protect. However, the Court left open the possibility that student speech could be restricted in situations in which the speech was "materially and substantially disruptive" or in which the speech intruded upon the rights of other students.

Bethel School District No. 403 v. Fraser **(U.S. 1986)**

While delivering a speech on behalf of a student government candidate at a high school assembly, a student speaker made some sexually suggestive statements. The student had been advised in advance not to make the comments. The student was suspended from school.

The Supreme Court upheld the action, finding the student's comments to have been substantially disruptive, unlike the non-disruptive wearing of the armbands in *Tinker*. In distinguishing the case from *Tinker*, the Court also found that the

student assembly speech was not "political" (in the sense that a speech critical of the government would be) and therefore it was not protected to the same extent by the First Amendment. The court also concluded that the student's speech could be restricted if it were inconsistent with the school's educational mission.

Hazelwood School District v. Kuhlmeier **(U.S. 1988)**

High school journalism students were responsible for writing the school newspaper. One issue was to contain stories about divorce and student pregnancy. The principal, who objected to the articles, feared that changes he wanted made in the two stories would not be possible before publication (which turned out to be incorrect), so he removed the pages containing those stories from the paper. Other stories were also removed because they happened to be on the same pages as the stories to which the principal objected.

The Supreme Court upheld the principal's action and reinterpreted the *Tinker* and *Fraser* decisions. The *Tinker* case, Justice Byron White wrote, offered protection for personal expression, while *Fraser* was less protective of school-sponsored expression (such as the assembly speech). Similarly, the newspaper at the center of the *Hazelwood* dispute was school-sponsored, as it received school funding and teacher supervision. According to White, a school is free to tolerate student speech with which it disagrees, but is not required to promote that speech actively. White also noted that the *Fraser* opinion permitted school officials to limit student speech that was inconsistent with the school's educational mission.

- Read those portions of your school's discipline policy that deal with student speech, assembly, and protest. Write a proposed policy that takes *Tinker*, *Fraser*, and *Hazelwood* into account.

- Suppose that a student who objects to a recent action of the U.S. government passes out related political pamphlets on school grounds. Think about, and write answers to, the following questions:

A. Should the student be free to pass out the pamphlets, in light of *Tinker*, *Fraser*, and *Hazelwood*? Why or why not?
B. Does it matter whether the student printed the information on the school's newspaper press? Why or why not?
C. Do the results in *Tinker*, *Fraser*, and *Hazelwood* make sense to you? Explain why you agree or disagree with the majority's view in each one. Are the decisions consistent with each other?

- Discuss your answers with a small group of classmates.

Additional Activities

The *Hazelwood* case provides students with a good role-playing opportunity. In the five-lesson packet, *From a School Newsroom to a Courtroom*, students consider the case, both as the U.S. Supreme Court and as a local school board. The packet is a 1989 publication of the Constitutional Rights Foundation, 601 South Kingsley, Los Angeles, CA 90005 (phone (213) 487-5590) or 407 South Dearborn, Suite 1700, Chicago, IL 60605 (phone (312) 663-9057).

Fraser is one of the cases considered in "The Bill of Rights," an article from *Update on Law-Related Education* 11 (Winter 1987) p. 12-14 (EJ 351 627). The case and others are used to show students that while they are entitled to certain rights, the courts have identified limits to those rights.

Results/Benefits

Students now understand that free speech is not absolute and that school administrators retain broad authority to control student expression. It becomes clear that even the Supreme Court takes varying positions on student expression, depending upon the circumstances.

Additional Resources

ED 313 792

Beezer, Bruce. *U.S. Supreme Court Decisions in Bethel and Hazelwood: Is the Pig in the Parlor Gone?* Paper presented at the Annual Meeting of the American Educational Studies Association (Chicago, IL, 1989), 12 pp.

Russo, Elaine M. "Prior Restraint and the High School 'Free Press': The Implications of *Hazelwood School District v. Kuhlmeier*." *Journal of Law and Education* 18 (Winter 1989) p. 1-21.

Shah, Dorothie C. "Individual Rights: Freedom of the Press." *Update on Law-Related Education* 13 (Spring 1989) p. 51-53.

T.L.O. and School Searches

Brief Description

Students review *New Jersey v. T.L.O.*, one of the most significant cases on the subject of searches of students.

Objective

To learn the standards that school administrators must meet to justify searches of students' lockers, vehicles, and bodies; to examine the limits on the power to search.

Procedures

- Review the Fourth Amendment (see Appendix A).
- Read the following case summary.

New Jersey v. T.L.O. **(U.S. 1985)**

On March 7, 1980 a teacher at a Piscataway, New Jersey, high school found a student smoking in the school restroom. The smoker, identified as T.L.O., and another student who was with her, were taken to the assistant principal. The official questioned the two girls. The other girl admitted that she had been smoking, but T.L.O. denied it.

When T.L.O. denied that she had been smoking, the assistant principal demanded to see the girl's purse. When he looked inside, he immediately saw cigarettes. When he removed the cigarettes from the purse, the assistant principal saw cigarette rolling papers, which led him to suspect that T.L.O. might have been a marijuana user. Searching further, he found marijuana, forty one-dollar bills, and a pipe of the kind used to smoke hashish. In a separate compartment of the purse, the assistant principal found an index card that read "People who owe me money" and contained a list of names with dollar amounts next to them. The school contacted T.L.O.'s mother, who took the girl to the police station.

After admitting to selling marijuana to other students, T.L.O. was suspended from school for three days for smoking and for seven days for possession of marijuana. She was also charged with delinquency. T.L.O. brought a legal challenge to the search of her

Source

ED 281 305

Rossow, Lawrence F., "Search and Seizure in the Public Schools." Topeka, KS: National Organization on Legal Problems in Education (1987) p. 3-12, 28-30.

Comments

You and your students should keep in mind that police cannot use the lower standard for school administrator searches as a way around the Fourth Amendment's limits on search and seizure. School officials carrying out searches under the direction of police will be held to a higher legal standard. As in the case of a police search of a suspect, probable cause or unusual circumstances (such as a public safety emergency) must be present for police search to be valid.

purse, claiming that it was done in violation of the Fourth Amendment.

- Write your answers to the following questions.

  A. Do you think the search of T.L.O.'s purse was valid, or did it violate her Fourth Amendment rights?

  B. Did the assistant principal have to have probable cause to search the purse? If so, was there probable cause to search the purse?

- Discuss the Fourth Amendment and your opinion with the class.

- Read the following summary of the Supreme Court's decision.

Writing for a majority of the Court, Justice Byron White stated that the assistant principal was acting on behalf of the state when he conducted the search. Therefore, he was bound by the Fourth Amendment. White rejected the state of New Jersey's argument that the assistant principal was acting in place of the girl's parents, which would mean that he was not limited by the Fourth Amendment.

To White, the school was a special setting which did not require the full protection that the Fourth Amendment provides in criminal cases. For that reason, the Court came up with a special legal test for searches in the schools. First, a school official had to have a reasonable suspicion that there was evidence of a crime or school rule violation. Second, a search had to be reasonable from the outset and reasonably limited in scope. The search of T.L.O.'s purse was found to satisfy these requirements.

Additional Activities

In their article, "Students' Constitutional Rights" in *Update on Law-Related Education* 12 (Winter 1988) p. 30-33 (EJ 368 161), Kathy Aldridge and Jeanne Wray encourage you to call upon your students to argue landmark court decisions in the case of a student who is thought to possess drugs illegally.

Similarly, in a lesson from *The Bill of Rights: Acting on Principle* (1990), published by the Virginia Commission on the Bicentennial of the United States Constitution and the Virginia Institute for Law and Citizenship Studies, students sit as a local government council and as a school board to weigh the issue of surveillance in the schools. The package also includes role-playing activities relating to such issues as religious study in the public schools and drug testing. To get the materials, write the Virginia Institute for

Law and Citizenship Studies, Virginia common wealth University, School of Education, 1015 West Main Street, Richmond, VA 23284-2000, or call (804) 367-1322.

Results/Benefits

Students see that a lower standard applies when school officials are searching students than is the case when a law enforcement officer is searching a criminal suspect.

Additional Resources

ED 310 550

Edwards, Floyd H. "Tennessee's Student Drug Testing Law." Paper presented at the Annual Meeting of the National Council of Professors of Educational Administration (Tuscaloosa, AL, August 13-18, 1989).

Lincoln, Eugene A. "Mandatory Urine Testing for Drugs in Public Schools and the Fourth Amendment: Some Thoughts for School Officials." *Journal of Law and Education* 18 (Spring 1989) p. 181-88.

Sniffing at the Fourth Amendment

Source

ED 308 095

Stephens, Ronald D., "Student Searches and the Law." Malibu, CA: National School Safety Center (1988) p. 9-10.

Brief Description

In reading a leading case on the subject of school searches, students develop a better understanding of their individual rights in the educational setting.

Objective

To increase understanding of one common means of search in the schools; to learn the proper scope and limits of school searches.

Procedures

- Read the Fourth Amendment. Discuss what would be a "reasonable" search among students on school grounds.
- Read the following case summary:

Horton v. Goose Creek Independent School District

(5th Circuit 1983)

Goose Creek school officials arranged to have specially trained dogs search for more than 50 substances on school grounds, including alcohol and illegal drugs. Students were informed of the so-called "canine drug protection program," and dogs were taken through various schools in the district on a random, unannounced basis. The dogs sniffed lockers, cars, and students alike.

If a dog detected a substance, the student's outer clothing and possessions were checked in an administrator's office. If the dogs smelled something illegal around a student's car, the student was asked to open the vehicle's doors and trunk. When the dogs reacted to something inside a locker, school officials opened and searched the locker with or without the student's consent.

Some of the students whose clothing, lockers, and cars were checked, brought court cases, claiming that the searches violated the Fourth Amendment ban on unreasonable searches and seizures.

- Write your answers to the following questions based on the Horton case.

A. Is a dog sniffing at a person's body for drugs a reasonable search? Why or why not?

B. Is it reasonable for school authorities to have drug-sniffing dogs check students' lockers? Why or why not?

C. Should school officials using drug-sniffing dogs be able to check students' cars? Should it matter whether the cars are on school grounds?

D. Do you see any legal difference between school officials using the dogs in a search and the school officials' seizure of what the dogs discover?

- Discuss your answers with your classmates, in small groups.
- Read the following summary of the Fifth Circuit Court of Appeals decision in the *Horton* case.

The court decided that the use of drug-sniffing dogs around student lockers and cars was not a search in the Fourth Amendment sense. However, the judges believed that it was a search to let the dogs sniff students' bodies. For that reason, such a body search was constitutional only if school officials had "reasonable cause" based on "individual suspicion." In other words, dogs could be used around students' bodies only if school officials had reasonable cause to believe that a specific student was in possession of drugs or alcohol.

A circuit court opinion is binding only on those within that circuit. For instance, the Fifth Circuit's *Horton* ruling does not apply to Illinois, Indiana, and Wisconsin, which are covered by the Seventh Circuit Court of Appeals. In *Doe v. Renfrow* (1980), the Seventh Circuit judges ruled that a drug-sniffing dog *could* check the bodies of students. On the other hand, cases in the Ninth Circuit (which includes Alaska, Arizona, California, Guam, Hawaii, Nevada, Oregon, and Washington) held that a dog-sniff search of either bodies or objects was a search under the Fourth Amendment, and must therefore be based on reasonable cause. That view was expressed in *United States v. Beale* (1982) and *United States v. Solis* (1976).

Results/Benefits

Students see that the school search issue is difficult not only for them; the complexity of the matter is reflected in the diversity of opinions from the federal appellate courts.

Comments

Discuss your local school system's search-and-seizure policy with students. Ask them to figure out which, if any, of the dog-sniffing policies set out by the courts is reflected in the policy in force in your locality.

You may want to invite a school administrator to talk with your students about the policies of your school district with respect to search-and-seizure, and—more generally—drugs and alcohol on school premises.

Students and Abortion

Source

ED 250 264

Howard, Estelle, "Design for Life: Abortion" (Teacher's Lesson Plan). Los Angeles: Constitutional Rights Foundation (1977) p. 3-6.

Brief Description

Students think critically about the issues raised by teen pregnancy and abortion.

Objective

To prompt consideration of a controversial modern issue that touches the lives of many adolescents; to develop analytical skills.

Procedures

- Read the following hypothetical case.

Susie is 16 years old, unmarried, and living with her parents. She discovers that she is about eight weeks pregnant. Her parents' dislike for the father of the child is far surpassed by their belief that abortion is murder. Susie does not want to marry and does not want to be an unwed mother. She knows that it is medically safest for her to have an abortion during the first three months of pregnancy. She wants an abortion and she wants it now. However, the law in her state requires that an unmarried woman under 18 years of age must have the consent of a parent to have an abortion during the first 12 weeks of pregnancy. Yet, Susie knows that neither parent would ever consent.

- Answer the following questions in a short essay:

  A. What interests do Susie's parents have in the abortion decision? Should they be able to prevent her from having an abortion?

  B. Should Susie be able to obtain an abortion without getting her parents' consent? Why or why not?

- In recent years, the Supreme Court has upheld parental notice requirements. However, the Court has generally required states to provide a judicial alternative for minors who fear telling their parents about pregnancies. In such a case, the court can help decide if an abortion may be sought, without notifying parents.

- Discuss your opinions on abortion with your classmates.

Results/Benefits

Students form opinions on an important social issue which they may not have fully considered previously. If a young person becomes involved in a similar situation in the future, this exercise may provide a foundation for intelligent decision making.

Comments

Explore with students your state's laws regarding minors' access to abortion. Invite pro-life and pro-choice advocates to your class to debate the abortion issue. Invite the debaters to discuss laws requiring doctors to notify parents when minors seek abortions.

The Play's the Thing

Source

ED 292 190

Lufler, Henry S., Jr., "Pupils," in Thomas, Stephen B., ed., "The Yearbook of School Law, 1987." National Organization on Legal Problems in Education (1987) p. 97-98.

Brief Description

Students think about free expression as it relates to school plays and a school administration's power to restrict students' individual expression.

Objective

To realize that the First Amendment is implicated even by seemingly minor educational matters such as the content of a school's dramatic presentations.

Procedures

- Read the following case summary, decided by the federal district court for Vermont in 1986:

Bell v. U-32 Board of Education

Student actors and their faculty advisors at a high school in East Montpelier, Vermont chose the play "Runaways" as their spring musical. The play, which portrays such adult themes as sexual violence and drug abuse, had already been read and discussed in the school's humanities course. The local school board voted down the presentation of the play. A lawsuit opposing the school board's action was brought by teachers and students alike. Both sides in the dispute focused on whether the board's decision "directly and sharply implicate[d]" the students' First Amendment rights.

- Write answers to the following questions:

  A. Does the board's action interfere with the students' First Amendment rights? Why or why not?

  B. Does the decision of the board to bar presentation of the play violate the teachers' freedom in any way?

  C. Did the board have reasons for blocking the play? Were the reasons valid?

  D. Do you think the play should have been presented? Why or why not?

- Discuss your answers with a small group of classmates.

- Read the following summary of the court's decision.

The district court judge sided with the school board. In the judge's view, because students had already read the play in class, it was part of the curriculum. The law gives the school board jurisdiction over curriculum matters. In addition, the judge decided that the play's adult themes could be too disturbing for some students. In the court's words, the students' and teachers' free expression rights had to give way to concerns "for the well-being of the larger student body."

Results/Benefits

Students see that conflicts between their rights and the schools' authority to restrict those rights can arise in many situations, even situations involving extracurricular activities.

Additional Resources

Delon, Floyd G. *"Clayton v. Place: Shall We Dance?" West's Education Law Reporter* 57 (February 1, 1990) p. 341-49.

Sparks, Richard K. "Before You Bring Back School Dress Codes, Recognize that the Courts Frown upon Attempts to 'Restrict' Students' Rights." *American School Board Journal* 170 (July 1983) p. 24-25.

Comments

Instruct your students to discuss how much freedom they think teachers should have to decide what to teach. Have them consider both controversial topics within the teacher's subject area (e.g., abortion in health class) and topics outside of that area (i.e., discussing U.S. foreign policy in a science class). Ask your students at what point they think a teacher's selection of subject matter might violate school board authority.

Is This a Stadium or a Courtroom?

Source

ED 256 649

South Carolina State Dept. of Education. "Students and the Law." Columbia, SC: Office of Vocational Education (1984) 91 pp.

Brief Description

Students consider legal disputes that arise in a setting seemingly distant from the legal system: sports.

Objective

To underscore the lesson that disputes over law and individual rights touch all phases of daily life, even athletic and recreational activities.

Procedures

- Read the case summaries which follow:

Stirrup v. Mahan **(Ind. 1972)**

A young man had transferred from a high school in Miami, Florida to one in Bloomington, Indiana, where he wanted to play varsity football. The student tried to join the high-school team without waiting a year to become eligible, as required by the Indiana High School Athletic Association. The association had passed the rule to limit excessive recruiting of talented high-school athletes.

The court decided in favor of the student, on the grounds that the regulations in question were more broadly drawn than necessary to prevent recruiting or school-jumping. However, the court left no doubt that the principle at stake was an important one that justified protection by groups like the athletic association. The court stated:

Schools are for education. There is no doubt that extracurricular athletic competition may add to the educational process, but the extracurricular activities should not take precedence over the curricular activities of the school. The sideshow may not consume the circus. The prevention of recruiting and school-jumping are both fitting and proper goals by which the Indiana High School Athletic Association (IHSAA) maintains the amateur standing of high school athletics. This we deem to be a compelling state interest.

Hall v. University of Minnesota **(Minn. 1982)**

Mark Hall played basketball at the University of Minnesota. He had passed 90 hours of work in the university's non-degree program. Under Big 10 Conference rules, he had to enter a degree program or lose his eligibility; however, he was denied admission for his senior year because of academic problems and unspecified allegations concerning his conduct.

Hall sought a court order allowing him to play. Noting that the Fourteenth Amendment prohibits state agencies (including public universities) from depriving anyone of "life, liberty, or property" without the due process of law, the court held that Hall had a constitutionally protected, proprietary interest in participating in athletic programs because of his legitimate expectations of securing a professional contract if he played college basketball during his senior year. Therefore, the court said, Hall was entitled to a hearing.

In analyzing the case, the court concluded that Hall was the victim of a "tug of war" between the university's academic wing and its athletic department. The judge showed little sympathy for either group, but much sympathy for Hall as a pawn in this game:

The university's academic wing argues that if this court orders Hall into a degree program, its academic standards and integrity would be undermined. Hall and his fellow athletes were never recruited on the basis of scholarship and it was never envisioned they would be on the Dean's List. Consequently we must view with some skepticism the university's claim regarding academic integrity. This court is not saying that athletes are incapable of scholarship; however, they are given little incentive to be scholars, and few persons care how the student-athlete performs academically, including many of the athletes themselves. The exceptionally talented student-athlete is led to perceive the basketball, football and other athletic programs as farm teams and proving grounds for professional sports leagues. It may well be true that a good academic program for the athlete is made virtually impossible by the demands of the sport at the college level. If this situation causes harm to the university, it is because [the university has] fostered it and the institution rather than the individual should suffer the consequences.

- Answer these questions in writing:

  A. Do cases like these belong in court? Why or why not? Does it seem odd to settle disputes about athletics in court?

Comments

Ask your students to think about other reasons why parents might want to send their children to a particular school. What if a student wanted to attend the school so that she could be a part of its theater group? An unusual academic program? Should there be a recognized constitutional right to participate? Does it matter whether the program is part of the curriculum or an extracurricular activity?

B. In the *Stirrup* case, did the athletic association have good reason for setting rules that limited student-athletes' ability to change schools? Did the court think the reasons were valid?

C. Who do you think had the strongest arguments in the *Hall* case? Do you agree with the court that Hall was caught in the middle of what was really an argument between the academic and athletic branches of the University of Minnesota? Do you see any other way in which this dispute could have been settled?

D. Does it make sense to you that the court basically found that Hall had a Fourteenth Amendment right to play basketball? Do you think this would surprise those who drafted the amendment?

- Discuss your answers with your class.

Additional Activities

Encourage students to look for newspaper reports about professional athletes' contract negotiations, strikes or demands for more pay. Discuss the question of whether legal disputes involving highly paid athletes should be treated in the same way as any other labor-management dispute. How are the two situations similar? How do they differ?

Results/Benefits

Law has a vast influence on everyone's activities, even those activities in which people engage to escape the pressures of daily life. Students see that the legal system influences every aspect of life, even in ways that may appear silly or bizarre.

Additional Resource

Flygare, Thomas J. "Texas Supreme Court Upholds 'No Pass/No Play' Rule." *Phi Delta Kappan* 67 (September 1985) p. 71.

Your Right to Enter into Contracts

Brief Description

Students learn some of the fundamentals of contracts through reading and discussion activities.

Objective

To begin to gain some comprehension of what a contract is and what it does.

Procedures

- Discuss the difference between civil rights and political rights. Your teacher will explain that civil rights are those freedoms guaranteed by the U.S. Constitution, such as the freedom of speech and freedom from cruel and unusual punishment. Political rights allow a citizen to participate in the process of government, such as the right to seek political office.

- Discuss real and personal property. Real property includes land and anything attached to it. Personal property includes automobiles, stereos, furniture, etc. Most people get real and personal property either by buying it or inheriting it.

The law divides property into the smaller categories of real and personal property. A "fixture" is an item of personal property attached to real property in such a way that it becomes part of the real property. Examples include light fixtures and built-in appliances. An "easement" is a grant to another party of the right to use a part of some real property for a specified period of time. For instance, you might allow your neighbors to cross over your land while they are moving building materials across your property to theirs.

- Talk about wills. Answer the following questions:

  A. Should a person, by writing a will, be able to control what happens to her property after she dies? Why or why not?

Source

ED 220 650

Milner, Donald E., "Teaching Indirectly Related Subjects in Vocational Education (Teaching Unit)." Washington, D.C.: Appalachian Regional Commission (1981) 121 pp.

Comments

Present your students with examples of different kinds of contracts: an automobile sales contract, a real estate contract, and/or an agreement to have home repair services performed. Instruct your students on how to draw up contracts between themselves. Invite them to negotiate contracts with one another.

B. Under what conditions ought a dead person's relatives be allowed to challenge what the person's will says?

- Read the following explanation of contracts:

A contract is a legally binding agreement between two or more competent persons. Four elements must be present: an offer must be made, and the offer must be accepted. There must be "consideration," that is, something of value must be passed between the parties. The contract must be for a legal purpose (i.e., it cannot be against the law).

In an express contract, all terms are detailed and are in writing. An implied contract is one in which the actions of both parties indicate that an agreement has been reached, even though nothing may have been written down. State law usually sets a dollar value limit above which a contract must be written down to be effective.

- To see how much you have learned, write your answers to the following questions:

A. Explain the difference between civil rights and political rights.

B. What are the four essentials of a contract?

C. _____ property is land and anything attached to it.

D. Automobiles, stereos, and furniture are classified as _____ property.

E. What is "consideration"?

Results/Benefits

Students are introduced to concepts of property and contract law, matters with which they will be dealing frequently as adults.

The Rights of Minors in the Law of Contracts and Wills

Brief Description

Students learn about their own rights as contracting parties by reading about the property rights of minors.

Source
ED 300 726
"Youth and the Law: A Guide for Legislators." St. Paul, MN: Minnesota House of Representatives (1986) 66 pp.

Objective

To learn some basic concepts of the law of contracts and wills; to understand that this area of law applies to minors and includes some special provisions for minors.

Procedures

- Read the following summary of the law of property as it applies to minors:

In most states, a minor may make a contract but may choose not to carry it out, unless it involves the purchase of such necessities as food or shelter. A contract which a person may decide not to honor is said to be "voidable."

Most states do not allow a minor to make a will. States disagree over whether a parent making a will can disinherit a child. Generally, if it appears that the child was not given any of the parent's property through the will because of oversight or because the child was born after the parent's death, the child will inherit something from the parent.

In most cases, if an individual is adopted and the adoptive parent has died without leaving a will, the adoptee has a legal right to a share in the estate of the adoptive parent. In this situation, the adoptee has no claim on the estate of the biological parent, unless the individual was adopted by a step-parent.

Many states abide by the Uniform Parentage Act. One section of this law provides that if parents were not married to each other and did not leave wills, children of any age inherit from either parent if parentage of the children is proven.

- After reading the above passage, discuss the following questions.

Comments

Show your students a sample will. Low-cost "will kits" are now readily available at stationery stores and other places. Consider inviting a local lawyer to discuss contracts and wills with your students.

A. Should parents be allowed to disinherit their children? Should it make any difference how old the children are?

B. Should minors be allowed to have wills?

C. What do you think should happen to a person's property if he or she dies without a will?

D. Should the legal effect of contracts written by minors be any different from contracts written by adults? Why do you think a state might want to allow minors to back out of contracts if they so choose?

Results/Benefits

Students learn about contract voidability, wills, and related topics, giving them early exposure to subjects that will affect them from time to time throughout their lives.

Work, Save, Tax, and Borrow: Teens in the Working World

Brief Description

To gauge their understanding of laws dealing with working teens, students answer questions about employment-related topics.

Objective

To consider the rights and responsibilities of workers—subjects that will affect students both in the short term and throughout their careers.

Source

ED 311 312

"You Have the Right If You Know It: A Rights and Responsibilities Handbook for Virginia Teenagers." Richmond, VA: Virginia State Dept. for Children (1987) 111 pp.

Procedures

- Discuss your state's requirements regarding working teens. Answer the following questions in writing:

  A. Does your state require a work permit before a person under sixteen years of age can get a job? If so, how do you get one?

  B. Are there limits on how many hours teens can work?

  C. What should you do if an employer wants you to violate federal or state work rules?

  D. Does a teen worker have to pay Social Security taxes? If so, how much?

  E. Who has to get a Social Security card?

  F. Where do you go to get a Social Security card?

  G. Do teens have to file income tax returns? If so, where do you go to get one? How much money do you have to earn before you must pay federal taxes?

  H. Can your parents claim you as a dependent on their tax returns if you worked during the year?

  I. Once you start earning money, can you open your own savings or checking account? Can you get your own credit card? Bank loan?

- After answering the questions, read the following essay, which summarizes the answers.

Many states require people under the age of sixteen to get work cards before taking on jobs. You or your teacher can check on your state's rules on when and where to get the cards. However, many states that do require work permits do not require teens to get them for babysitting, mowing lawns, or other informal labor.

Teens under sixteen cannot work during school hours when school is in session, unless the work is part of a certified work/school program. Fourteen- and fifteen-year-olds can work up to eight hours per day and up to 40 hours per week, and can work between 7 a.m. and 7 p.m. Street vendors can start at 6 a.m. and newspaper carriers can begin at 4 a.m. These and other rules are set out in the U.S. Wage and Hour Division's pamphlet, "Child Labor Requirements in Nonagricultural Occupations."

If an employer orders a worker to violate the rules, the worker can notify the regional Wage and Hour office. The office will investigate without informing the employer of who reported the problem.

Social Security is designed to provide retirement and disability benefits to workers. To pay for this large federal program, every worker who earns at least $50 in any quarter of the calendar year must pay Social Security taxes. Federal law now requires children five years of age and older to get Social Security cards before they can be claimed as dependents on their parents' income tax returns. Most cities and towns have Social Security offices.

Anyone who earns above a certain amount of money (the amount changes each year) must file a federal income tax return. To find the amount, contact the local office of the Internal Revenue Service. A state's revenue office can tell workers what the requirement is for paying state taxes on earnings. Income tax forms are available at post offices, federal buildings, libraries, post offices, and banks.

If parents paid for at least one-half of the support of a child during a given year, and the child is either under nineteen or was a full-time student for five months during the year, the parents can claim that child as a dependent on their tax returns. This is true even if the child claimed himself or herself as a dependent on a return.

A person under eighteen can open a savings account. Some banks require a parent's permission for withdrawals. Some banks allow people under eighteen to have checking accounts; others do not.

Those under eighteen cannot get credit cards, and may not be able to get a loan without a parent or guardian as co-signer.

Additional Activities

It's the Law: Students' Rights and Responsibilities, available from the Oklahoma Bar Association and Oklahoma State Department of Education, Oklahoma City, OK (ED 240 008) includes a section on teens and employment. The lesson includes questions for students to answer, as well as related learning activities. Other sections deal with such matters as arrest and the court system.

Ask students to examine "help wanted" advertisements from the local newspaper. Discuss those jobs that a high school student could fill today. Are there very many that don't require a college degree, work experience, or both? What does this tell students about the possibility of their present employment?

Results/Benefits

Students take a critical look at the practical subjects of employment, Social Security, taxation, banking, and borrowing.

Additional Resource

ED 240 008

It's the Law: Students' Rights and Responsibilities. Oklahoma City: Oklahoma Bar Association (1982).

APPENDIX A

Preamble to the Constitution of the United States:

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

The Bill of Rights: Amendments I-X of the Constitution

(ratified and effective as of December 15, 1791)

[Amendment I]

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

[Amendment II]

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

[Amendment III]

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

[Amendment IV]

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

[Amendment V]

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use, without just compensation.

[Amendment VI]

In all criminal prosecutions, the accursed shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed; which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him, to have compulsory process for obtaining Witnesses in his favor, and to have the assistance of Counsel for his defence.

[Amendment VII]

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

[Amendment VIII]

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

[Amendment IX]

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

[Amendment X]

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Constitutional Amendments Subsequent to the Bill of Rights that Pertain to Civil Liberties and Rights

[Amendment XIII, ratified December 6, 1865]

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction...

[Amendment XIV, ratified July 9, 1868]

Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws....

[Amendment XV, ratified February 3, 1870]

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude....

[Amendment XIX, ratified August 18, 1920]

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex....

[Amendment XXIV, ratified January 23, 1964]

Section 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax....

[Amendment XXVI, ratified July 1, 1971]

Section 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age....

APPENDIX B

An Ordinance for the government of the territory of the United States North West of the river Ohio.[1]

Be it ordained by the United States in Congress Assembled that the said territory for the purposed of temporary government be on district, subject however to be divided into two districts as future circumstances may in the Opinion of Congress make it expedient.

Be it ordained by the authority aforesaid, that the estates both of resident and non resident proprietors in the said territory dying intestate shall descend to and be distributed among their children and the descendants of a deceased child in equal parts; the descendants of a deceased child or grandchild to take the share of their deceased parent in equal parts among them; and where there shall be no children or descendants then in equal parts to the next *of* kin in equal parts among them their deceased parent's share *and there shall in no case be a distinction between kindred of the whole and half blood*; saving in all cases to the widow of the intestate her third part of the real estate for life, and one third part of the personal estate; and this law relative to descents and dower shall remain in full force until altered by the legislature of the district. And until the governor and judges shall adopt laws as hereinafter mentioned estates in the said territory may be devised or bequeathed by wills in writing signed and sealed by him or her in whom the estate may be, being of full age, and attested by three witnesses, and real estates may be conveyed by lease and release or bargain and sale signed, sealed and delivered by the person being of full age in whom the estate may be and attested by two witnesses provided such wills be duly proved and such conveyances be acknowledged or the execution thereof duly proved and be recorded within on year after proper magistrates, courts and registers shall be appointed for that purpose and personal property may be transferred by delivery having however *to the french and canadian inhabitants and other settlers of the Kaskaskies, Saint Vincents and the neighboring villages who have heretofore professed themselves citizens of Virginia, their* laws and customs now enforce among them relative to the descent and conveyance of property.

Be it ordained by the authority aforesaid that there shall be appointed from time to time by Congress a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress; he shall reside in the district and have a freehold estate therein, in one thousand acres of land while in the exercise of his office. There shall be appointed from time to tome by congress a secretary, whose commission shall continue in force for four years, unless sooner revoked; he shall reside in the district and have a freehold estate therein in five hundred acres of land while in the exercise of his office; it shall be his duty to keep and preserve the acts and laws passed by the legislature and the public records of the district and the proceedings of the governor in his executive department and transmit authentic copies of such acts and proceedings every six months to the Secretary of Congress. There shall also be appointed a court to consist of three judges any two of whom to form a court, who shall have a common law jurisdiction and reside in the district and have each therein a freehold estate in five hundred acres of land while in the exercise of their offices, and their commissions shall continue in force during good behavior.

The governor, the judges or a majority of them shall adopt and publish in the district such laws of the original states criminal and civil as may be necessary and best suited to the circumstances of the district and report them to congress from time to time, which laws shall be in force in the district until the organization of the general assembly therein, unless disapproved of by Congress; but afterwards the legislature shall have authority to alter them as they shall think fit.

The governor for the time being shall be Commander in chief of the militia, appointed and commission all officers in the same below the rank of general Officers; All *general* Officers shall be appointed and commissioned by Congress.

Previous to the Organization of the general Assembly the governor shall appoint such magistrates and other civil officers in each county or township, as he shall find necessary for the preservation of the peace and good order in the same. After the general Assembly shall be organized, the powers and duties of magistrates and other civil officers shall be regulated and defined by the said Assembly; but all magistrates and other civil officers, not herein otherwise directed shall during the continuance of this temporary government be appointed by the governor.

For the prevention of crimes and injuries the laws to be adopted or made shall have force in all parts of the district and for the execution of process criminal and civil, the governor shall make proper divisions thereof, and he shall proceed from time to tome as circumstances may require to lay out the parts of the district in which the indian titles shall have been extinguished into counties and townships subject however to such alterations as may thereafter be made by the legislature.

[1]The italicized portions of the Ordnance were added during the debate on 13 July 1787.

So soon as there shall be five thousand free male inhabitants of full age in the district upon giving proof thereof to the governor, they shall receive authority with time and place to elect representatives from their counties or townships to represent them in the general assembly, provided that for every five hundred free male inhabitants there shall be one representative and so on progressively with the number of free male inhabitants shall the right of representation increase until the number of representatives shall amount to twenty five after which the number and proportion of representatives shall be regulated by the legislature; provided that no person be eligible or qualified to act as a representative unless he shall have been a citizen of one of the Unites States three years and a resident in the district or unless he shall have resided in the district three years and in either case shall likewise hold in his own right in fee simple two hundred acres of land within the same; provided also that a freehold in fifty acres of land within the same; provided also that a freehold in fifty acres of land in the district having been a citizen of one of the states and being resident in the district; or the like freehold and two years residence in the district shall be necessary to qualify a man as an elector of a representative.

The representatives thus elected shall serve for the term of two years and in case of the death of a representative or removal from office, the governor shall issue a writ to the county or township for which he was a member, to elect another in his stead to serve for the residue of the term.

The general assembly or legislature shall consist of the governor, legislative council and a house of representatives. The legislative council shall consist of five members to continue in Office five years unless sooner removed by Congress any three of whom to be a quorum and the members of the council shall be nominated and appointed in the following manner, to wit; As soon as representatives shall be elected, the governor shall appoint a time and place for them to meet together, and when met they shall nominate ten persons residents in the district and each possessed of a freehold of five hundred acres of Land and return their names to congress; five of whom Congress shall appoint and commission to serve as aforesaid; and whenever a vacancy shall happen in the council by death or removal from office the house of representatives shall nominate two persons qualified as aforesaid, for each vacancy, and return their names to Congress, one of whom Congress shall appoint and commission for the residue of the term, and every five years, four months at least before the expiration of the time of service of the Members of Council, the said house shall nominate ten persons qualified as aforesaid, and return their names to Congress, five of whom Congress shall appoint and commission to serve as Members of the council five years, unless sooner removed. And the governor, legislative council, and house of representatives, shall have authority to make laws in all cases for the good government of the district, not repugnant to the principles and Articles in the Ordnance established and declared. And all bills having passed by a majority in the house, and by a majority in the council, shall be referred to the Governor for his assent; but no bill or legislative Act whatever, shall be of any force without his assent. The Governor shall have power to convene, prorogue and dissolve the General Assembly, when in his opinion it shall be expedient.

The Governor, Judges legislative Council, Secretary, and such other Officers as Congress shall appoint in the district shall take an Oath of Affirmation of fidelity, and of Office, the Governor before the president of Congress, and all other Officers before the Governor. As soon as a legislature shall be formed in the district, the Council and house assembled in one room, shall have authority by joint ballot to elect a Delegate to Congress, who shall have a seat in Congress, with a right of with a right of debating, but not of voting, during this temporary Government.

And for extending the fundamental principals of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions are erected; to fix and establish those principles as the basis of all laws, constitutions and governments, which forever hereafter shall be formed in the said territory; to provide also for the establishment of States and permanent government therein, and for their admission to share in the federal Councils on an equal footing with the original States, at as early periods as may be consistent with the general interest,

It is hereby Ordained and declared by the authority aforesaid, That the following Articles shall be considered as Articles of compact between the Original States and the people and States in the said territory, and forever remain unalterable, unless by common consent, to wit,

Article the First. No person demeaning himself in a peaceable and orderly manner shall ever be molested on account of his mode of worship or religious sentiments in the said territory.

Article the Second. The Inhabitants of the said territory shall always be entitled to the benefits of the writ of habeas corpus, and of the trial by Jury; of a proportionate representation of the people in the legislature, and of judicial proceedings according to the course of the common law; all persons shall be bailable unless for capital offenses, where the proof shall be evident, or the presumption great; all fines shall be moderate, and no cruel or unusual punishments shall be inflicted; no man shall be deprived of his liberty or property by the judgment of his peers, or the law of the land; and should the public exigencies make it necessary for the common preservation to take any persons

property, or to demand his particular services, full compensation shall be made for the same; and in the just preservation of rights and property it is understood and declared; that no law ought ever to be made, or have force in the said territory, that shall in any manner whatever interfere with, or affect private contracts or engagements, bona fide and without fraud previously formed.

Article the Third, Mortality *and knowledge being necessary to good government and the happiness of mankind*, Schools and the means of education shall forever be encouraged. The utmost good faith shall always be observed toward the Indians, their lands and property shall never be taken from them without their consent; and in their property, rights and liberty, they never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall from time to tome be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.

Article the Fourth. The said territory, and the states which may be formed therein shall forever remain a part of this Confederacy of the United States of America, subject to the Articles of Confederation, and such alterations therein as shall be constitutionally made; and to all the Acts and Ordinances of the United States in Congress Assembled, conformable thereto. The Inhabitants and Settlers in the said territory, shall be subject to pay a part of the federal debts contracted or to be contracted, and a proportional part of the expenses of Government, to be apportioned on them by Congress, according to the same common rule and measure by which apportionments thereof shall be made on the other States: and the taxes for paying their proportion, shall be laid and levied by the authority and direction of the legislatures of the district or districts or new States, as in the original States, within the time agreed upon by the United States in Congress Assembled. The Legislatures of those districts, or new States, shall never interfere with the primary disposal of the soil by the United States in Congress Assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the bona fide purchasers. No tax shall be imposed on lands the property of the United States; and in no case shall non resident proprietors shall be taxed higher than residents. The navigable Waters leading into the Mississippi and St. Lawrence, and the carrying places between the same shall be common highways, and forever free, as well to the Inhabitants of the said territory, as to the Citizens of the United States, and those of any other States that may be admitted into the confederacy, without any tax, impose or duty therefor.

Article the Fifth. There shall be formed in the said territory, not less than three nor more than five States, and the boundaries of the States, as soon as Virginia shall alter her act of cession and *consent to* the same, shall become fixed and established as follows, to wit: The Western State in *the* said territory, shall be bounded by the Mississippi, the Ohio and Wabash rivers; a direct line drawn from the Abash and post Vincents due North to the territorial line between the United States and Canada, and by *the* said territorial line to the lake of the Woods and Mississippi. The middle State shall be bounded by the said direct line, the Abash from post Vincents to the Ohio, Pennsylvania, and the said territorial line; provided however, and it is further understood and declared, that the boundaries of these three States, shall be subject so far to be altered, that if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan; and whenever any of the said States shall have sixty thousand free Inhabitants therein, such State shall be admitted by its Delegates into the Congress of the United States, on an equal footing with the original States, in all respects whatever; shall be at liberty to form a permanent constitution and State government, provided the constitution and government so to be formed, shall be republican, and in conformity to the principals contained in these Articles; and so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free Inhabitants in the State than sixty thousand.

Article the Sixth. There shall be neither Slavery nor involuntary Servitude in the said territory otherwise than in the punishment of crimes, whereof the party shall have been duly convicted; provided always that any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service as aforesaid.

Be it Ordained by the Authority aforesaid, that the Resolutions of the 23rd of April 1784 *relative to the subject of this ordinance* be, and the same are hereby repealed and declared null and void.

APPENDIX C

UNIVERSAL DECLARATION of HUMAN RIGHTS

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmation their faith in fundamental human rights, in the dignity and worth of the human person and in the qual rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now Therefore

THE GENERAL ASSEMBLY

proclaims

THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all people and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

ARTICLE 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

ARTICLE 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

ARTICLE 3

Everyone has the right to life, liberty and security of person.

ARTICLE 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

ARTICLE 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

ARTICLE 6

Everyone has the right to recognition everywhere as a person before the law.

ARTICLE 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

ARTICLE 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

ARTICLE 9

No one shall be subjected to arbitrary arrest, detention or exile.

ARTICLE 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

ARTICLE 11

(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

ARTICLE 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

ARTICLE 13

(1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

ARTICLE 14

(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

ARTICLE 15

(1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

ARTICLE 16

(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

ARTICLE 17

(1) Everyone has the right to won property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

ARTICLE 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

ARTICLE 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

ARTICLE 20

(1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

ARTICLE 21

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

ARTICLE 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

ARTICLE 23

(1) Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favorable remuneration insuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

ARTICLE 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

ARTICLE 25

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of employment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

ARTICLE 26

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

ARTICLE 27

(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

ARTICLE 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

ARTICLE 29

(1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United nations.

ARTICLE 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

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